Supreme Court, U. S.
FILED
JUN 5 1979
MICHAEL RODAK, JR., CLERK

APPENDIX

Volume II, pp. 391-772

In the Supreme Court of the United States

OCTOBER TERM, 1978

Nos. 78-857 and 78-997

NATIONAL LABOR RELATIONS BOARD

and

YESHIVA UNIVERSITY FACULTY ASSOCIATION,
Petitioners,

—*v.*—

YESHIVA UNIVERSITY,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI IN NO. 78-857
FILED NOVEMBER 27, 1978
PETITION FOR CERTIORARI IN NO. 78-997
FILED DECEMBER 19, 1978
CERTIORARI GRANTED FEBRUARY 21, 1979

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[3078] ISAAC BACON,

being previously sworn, resumed the stand and testified further, as follows:

* * * *

REDIRECT EXAMINATION

* * * *

[3094] A On reconsideration I kust say that I am not very sure and I prefer to check on that. But by definition, my definition, the appointment of an assistant professor by our own definition, assistant professor means automatically full-time because if it were—if it were part-time they would not need a visiting assistant professor or visiting professor. And letters—letters that are not for full-time appointments are not written by the president.

MR. SCHECTMAN: Letters of full-time—

THE WITNESS: Letters for not full-time appointment are not written by the president.

Q Who are they written by, Dean Bacon, in your [3095] A For part-time people are written by me. And signed by me.

* * * *

Q Now, I'd like to turn now for a moment to the senior member in the speech department.

Who is that?

A Dr. Tauber, Abraham Tauber.

Q You recall, dean Bacon, when you were here last you were asked by Mr. Shectman whether any of the senior members had any reduction in their teaching loads attributable to their being senior members.

As I recall the record you said no, except that one was in a gray area. Which one is in the gray area?

A The gray area I referred to was Abraham Tauber.

Q All right.

Now would you tell us whether Abraham Tauber has a reduction in teach loads?

A The reason why I indicate—

Q Does he have a reduction in teaching load?

[3096] A I would have to say yes.

Q All right.
How much is that reduction?
A Two hours.
Q All right.
Now, is this the reduction in teaching load that you described as being within the gray area?
A Yes, I did.
Q Would you tell us why that is a gray area, Dean Bacon, because the record is not clear on this subject?
A Because sometimes he teaches more than the required 12 hours which means he would be getting additional money for it and at that time when I was asked it was not very clear in my mind how to define it.
But I think on thinking about it I would have to say that is a reduction of two hours because if it would be teaching 14 hours, let us say, I would pay him compensation for four hours, which means two above—four above the ten and two about the 12 which is considered a full-time appointment.
Q In any event, it is a fact, that he does receive—
A He does.
Q —an hour's reduction or compensation in lieu thereof on account of his functioning as the senior member of that department?
[3097] A That's correct.
Q That is a fact?
A That's correct.
Q That was not in the record previously, was it?
A Well, not that clearly, yes.
Q To the extent the record does not reflect that from your prior testimony it should be corrected to so reflect; is that right?
A Yes.

* * * *

RECROSS EXAMINATION

[3099] Q (By Mr. Shectman) How many hours is Professor Tauber—I am referring to the Tauber in the Speech Department—currently teaching?
A From memory I would have to say 14 hours.
Q Each—He is teaching 14 hours?
A Yes. Excuse me, 12 hours.
Q He is teaching 12 hours?
[3100] A 12 hours, plus the two hours compensation.

Q And how much compensation is he receiving?
A The same as a professor's rate, whatever the professor's rate is.
Q So he is receiving then the full-time faculty salary attributable to his seniority in his title; is that correct?
A That's correct.
Q On the salary scale which obtains at Yeshiva College?
A Right.
Q He is receiving no additional salary; is that correct?
A I said an additional compensation.
Q What is that additional compensation?
A The professional rate I think is 13 dollars and some change; I forgot what it is, per hour.
Q And what do you—And what duties is he performing for which he is—receiving additional compensation?
A As the senior member of the Speech Department.
Q I am asking now specifically what duties is he performing for which he is receiving that compensation?
A Hs is supervising the Speech Department.

* * * *

[3107] Whereupon,

ARTHUR B. KOMAR,

being first duly sworn by the Hearing Officer, testified as follows:

DIRECT EXAMINATION

Q (By Mr. Kramer) Dean Komar, by whom are you employed?
A Yeshiva University.
Q Yeshiva University?
A Yes.
Q What capacity?
A Dean of the Belfer Graduate School.
Q How long have you been dean of the Belfer Graduate School?
A Five or six years.
Q And prior to the becoming Dean of the Belfer Graduate School, did you work for Heshiva University?
A Yes, sir.

Q In what capacity?
A I was professor of physics.
[3108] Q You were a full professor of physics?
A Right.
Q How long were you a professor of physics?
A Well, I still am, so I have been with Yeshivz 12 years, I think.
Q And the other 7 years were as professor of physics; is that correct?
A Right.

* * * *

[3109] Q Are you presently teaching at Yeshiva University?
A Yes.
Q Would you tell us what you teach and hof oten you teach it? In terms of per term—
A I teach one course a semester. You want to know which course I am teaching?
Q Yes, sir.
A This semester I am teaching thermodynamics and statistical mechanics.
Q Last term?
A That would be previous—
Q In the spring of 1974?
A Spring of 1974 I taught quantum field therapy.
Q In the spring of 1975?
A I will be teaching statistical mechanics.
Q Are these courses taken by graduate students?
A Yes.
[3110] Q (By Mr. Kramer) Dean Komar, would you tell us the facts and circumstances surrounding your assuming the office of Dean of the Belfer School?

Would you put it in a time frame and then tell us how that came about in your own words, please?

A It was in 1968, if I remember correctly. The faculty had grievances against the previous dean, and assembled and petitioned the president of the university, President Belkin, for removal of the previous dean. And upon due consideration, it was then done immediately in discussions, I don't know what else went into it, the previous dean, Dean Geldbar was removed, and then I

was elected by the faculty as Acting Dean and a search committee was organized to find a full-time dean.

The search committee was—one existed—consisted [3111] of a number of members elected by the faculty and a few members appointed by the president.

I think the president appointed the vice president Kogel at that time, and he, I think he appointed one alumni member, whose name I don't recall at the moment.

In any case, that committee then functioned—prepared a list of names of people to approach to become dean and they went down, they made several offerings—I mean they—they did not make the offers. They recommended to the president to make offers to several people.

Those people came down but then decided not to take the position.

After approximately a year of this or fairly close to a year the head—the vice president Kogel who was the had of the search committee then recommended to the president that I be given the position as full-time dean.

The president approached me, asked me if I was interested. I went back to the faculty and asked them if they would approve, and they did, and I was appointed by the president.

This was, I suggest, about six years ago or so.

* * * *

[3113] Q Putting aside any limitations that I may have previously placed upon my question and any percentage characterization is that you have made, would you please just tell us what the grievances were?

A It is slowly coming back to me. The final culminating act which really provoked the faculty was that the previous dean attempted to rescind an appointment letter of a member of the faculty claiming that there was an error made in its issue.

I forget the exact details of the case. I just remember that a member of the faculty, I think it was Professor Snyder was—at—initially received an appointment letter not stating a termination date and his understanding was, I think it was a three-year appointment, and this dean then sent him a revised letter informing him that

it was intended as a brief appointment, either two years or [3114] something like that, and—which was contrary to the understanding of the Chemistry Department or of Professor Snyder when he accepted the position, and the faculty read the—read this correction as an intentional provication to antagonize members of the Chemistry Department and get them to resign from the school.

I think that was the final issue which precipitated the explosion.

Prior to that, there were lots of petty frictions which I can't even recall, but this, I think, was—

Q Was Professor Snyder what we call a new hire?

A No. He had been hired, I think—he had been present already a year or two.

I think it was quite close to the two-year period when he received this information that essentially he would be out of a job.

Q Dean Komar, would you give us some examples of the kind of thing you characterized as petty vrictions without using names?

A Petty frictions, with regard to what?

Q Prior, Dean.

A Oh, not approving payment of certain obligations such as professor travels on university business, I think that was one complaint. Or various allocations of funds. Interference in the appointments or promotions [3115] of faculty members.

Q Interference with whom?

A I think there was trouble within the Mathematics Department. I don't recall the exact details. This is six or seven years ago. But I know a number of mathematics professors resigned because they objected to the deans' interfering in their considering for appointments to the Mathematics Department and for promotions within the Mathematics Department.

I think it would—I think two or three professors of mathematics resigned or left at the end of that year and went elsewhere as a result of this interference and that was regarded as sources of friction, petty friction.

* * * *

[3117] Would it also be fair to state that that department is in the depth of transition?

A Yes.

Q Would you explain about that, please.

A Until this past year, Yeshiva University had several chemistry departments, depending upon how you count them.

Let me just enumerate.

There was the Chemistry Department at Belfer Graduate School, at Yeshiva College, Stern College, several different chemistry departments at the College of [3118] Medicine, and the State of New York, in its—has sent investigators, I have forgot what they are officially called, sent investigators around to evaluate the doctoral programs in the State of New York.

And they had come last year to evaluate the chemistry program. And they submitted a report which was accepted by the State of New York to the effect that the doctoral program at the Belfer School should be deregistered, and one of the reasons they gave is that the program in the Belfer School is too small, it is not at critical size, it has too few faculty members, it does not have enough teaching duties and as such it is not a viable program.

They strongly suggested that should the various chemistry departments of Yeshivan University be unified then it would have a critical size and be a viable program.

The University, therefore, is in the process now of doing this. It has officially announced now that there is a unified chemistry department for the entire university with the exception of the college of medicine.

And that Dr. Pomerantz was chairman of the Belver Department is now department chairman of the Chemistry Department of the entire university, Department fo College and Medicine.

[3119] how much since this has just been promulgated within this within this past semester, we are in a state of transition. The faculty members listed on this list are those who are in the Belfer School. There are now other faculty members who are in the other Chemistry

Departments who are in the process of being incorporated into the Unified Department.

* * * *

Q (By Mr. Kramer) Dean Komar, you told us that the state has deregistered the chemistry doctorate program; is that correct?

A That is correcg.

Q Is that now a final decision?

A Yes.

* * * *

[3120] Q Approximately how long did it take the State Education Department to reach this decision?

A The better part of a year, I would say.

Q During the course of that, Dr. Komar, of its deliberations, did the university send people to Albany, sir?

A Yes, sir, they did.

MR. SHECHTMAN: I'm going to object to this line of questioning.

* * * *

HEARING OFFICER: I assume you are going in a different area.

MR. KRAMER: I am going into supervisory status, managerial status of Professor Pomerantz who is the Chairman of the Chemistry Department, and we are not [3121] going to get into the substance of the report as we did with Dr. Fishman at some length I agree.

HEARING OFFICER: Okay. On that ground the objection is overruled.

* * * *

Q (By Mr. Kramer) During the course of the State Education Department's deliberations on this subject did the university send representatives to Albany to negotiate with the State Education Department's representatives and try to convince them not to deregister the program?

A Yes, they—I do.

Q Did you go?

A No.

Q And you are the dean of the school; is that right?

A Right.

Q Who went?

A Vice President Sokol, Vice President Fishman, and Professor Pomerantz.

Q Did you discuss with Professor Pomerantz what was going on in Albany?

A I believe I spoke to him before he left, and I spoke to him some time after he came back. But it was some time after because I was out of the country in the intervening period.

[3122] Q Did you give Professor Pomerantz any instructions as to what he should say or do in Albany?

A No, no. The discussion consisted of his informing me of what went on.

Q Was this a discussion in the regular course of your deanly functions?

A Whatever that may be.

Q In the regular course of business is the normal term?

A During the business day we had a conversation, let's put it that way.

Q Is is normal for you to have conversations with chairman of your departments?

A Yes.

Q About their functioning as chairmen?

A Yes.

Q Would you tell us what Dean Pomerantz reported to you about the chair—what chairman Pomerantz reported to you?

As best you recall, and in your own words, please.

A He told me that he went with the other two officials of the university, and they brought with them—I'm not sure whether it was a letter from President Belfin, but at least the assurances of President Belfin—Belfin that the [3123] university is prepared to make additional investments in the chemistry program, and the unification of the departments, in order to overcome the state's objections to the present status of the doctoral program.

And with these assurances they had hoped that the state would then reconsider their position. He then reported that—well, when he was therek of course, they took it under advisement.

Subsequently a letter was received by President Belkin from Commissioner Nyquist to the effect that he would not overrule the decision at this time, at least.

Q This is the same Professor Pomerantz who is Chairman of the university-wide Chemistry Department; is that right?

A Right.

The university proceeded to carry through the program in any event. I mean sir, of unifying the department.

* * * *

[3135] Q (By Mr. Kramer) Dean Komar, I show you a document marked as Employer's Exhibit 131 for identification and a document of eight pages entitled on the first page "Constitution, Belfer Graduate School of Science, Yeshiva University."

Are you familiar with this document?

A Yes.

Q What is it?

A It is the document—it is the constitution which tells the organization of the faculty of the Belfer School.

Q You also made reference in your previous testimony a minute ago to bylaws. Does this document also contain the bylaws of the Belfer governing—

A Yes.

Towards the back of the document; yes.

Q That would be on page 5 and pages thereafter?

A Yes.

Q Would you tell us, Dean Komar, how this constitution and bylaws came into being?

A Yes.

[3136] At the time, in 1968, when there was all this turmoil in the school due to the previous dean, the faculty assembled and set up a subcommittee to prepare such a document for the formal organization of the faculty.

The document was prepared and approved by the faculty and submitted to the president of the university. And the president sent, sometime thereafter, some type of letter, saying he accepts this document.

Q The document was promulgated at the initiative of the faculty?

A Yes. It was written by the faculty and promulgated at their initiative—I mean—yes. And ratified by the president of the university.

Q Now, the constitution, Dean Komar, at page 2, makes reference to a faculty council.

Q That would be in the first textual line on page 2?

A Right.

Q Is there in fact a faculty council at your school?

A Yes.

Q What is the faculty council?

A It is the entire faculty of the school. I mean as written in the constitution it is the full-time professors, the assistant—the associate dean, the dean, and the president [3137] of the university is technically a member also.

Q And—

A By the way, let me say, there is no associate dean at the moment. At the time it was written there was one.

* * * *

[3138] Q Now, in addition to the faculty council, do you also have a faculty committee at Belfer?

A Yes.

Q And that committee is described, is it not, in the constitution?

A It is.

Q It states there, Dean Iomar, that the faculty committee shall consist of the president of the university, the dean of the school, and the faculty committeemen selected with due regard to representation of various departments as specified in current bylaws.

A Right.

Q Does the president of the university in fact participate in the faculty committee meetings?

A He never has.

Q At no time?

A At no time has he ever.

Q Otherwise, the representation is as stated in the constitution on page 2?

A Yes.

Q Now, lets turn to page 5 of this document, particularly Roman Numeral I, which states, and I won't read it all by any means, that the faculty committee shall consist [3139] of, and then it describes under that the complement.

A Right.

Q Putting aside the president, who has not participated at any time, are the members of the committee made up as specified on that page?

A Yes.

Q They are designated as specified there?

A Right.

Q How frequently does the faculty committee meet?

A There are two statutory meetings each academic year and they may meet on other occasions.

So at a minimum of twice a year and could be three, four times a year, depending upon whether there is business for them.

Q What has been the actual practice?

A Two to three times a year.

Q Does the faculty council meet?

A Yes.

Q How frequently does that take place as a matter of actual practice?

A About the same. Maybe slightly less, in other words, two times a year.

Q Are there in addition to the faculty committee other faculty committees?

A Yes, there are.

Q Would you tell us about those?

A Well, there is a library committee, there is a [3140] computer committee, I imagine there are other ad hoc committees. I think credentials committee, welfare committee.

Q I did not hear that.

A I think there's a credentials committee, welfare committee, but I don't recall the meeting in recent years.

Since its function was to review the credentials of new appointments and we don't have new appointments—

MR. SHECTMAN: Did the witness refer to another commiteee after the credentials committee?

THE WITNESS: Yes. Welfare.

Q Dean Komar, turning to the faculty council itself, what is the function of that faculty council? How does it fit into the goverance of your school?

A Well, it is the principal governing body in the sense that the—that it constitutes all the faculty. Any subject of interest or relevance to the faculty can be faised there and discussed and voted upon.

Q What kind of subjects have been discussed there in the last two years?

A Everything from curriculum to welfare benefits, fringe benefit program has been discussed, occasional appointments, policy or—In other words, sizes of departments, formation of new departments or new [3141] programs or anything of that nature can be raised there. Sometimes the financial status of the school, the wage policy of the school, anything that is on the faculty members' mind can be traced and is in order for discussion.

Q What other type of items that are taken up in the faculty committee?

A Same. Exactly the same. It is just that the faculty committee is a more—sir—is a smaller body. It is more like an executive or presidium body because it is just unwieldly to have literally everyone present all the time when you want to discuss things.

The faculty committee also has additional functions as given in the bylaws such as if a department elects a department chairman, it has to be approved by the faculty committee.

So that is a function of the faculty committee which the faculty council does not have.

Q Let's turn to the library committee, for a moment. Would you tell us what that committee does?

A The library committee consists of several faculty members of the various departments. They determine the priority of ordering of books and journals. They make a recommendation to the librarian as to how much money they would need for books and journals, within the context of the budget given to the librarian then they would [3142] set the priorities of which should be ordered before which.

Since it has generally happened, you cannot order everything that is generally desired.

Q All right.

A They also make recommendations with regard to the hours of the library or the staffing of the library, when it should be opened, how many days, and so forth.

Q Are the recommendations of the library committee generally accepted?

A On priorities they are always accepted. On hours it is subject to staffing problems which become a financial consideration.

In other words, it is taken into consideration, but the amount of money involved becomes a relevant factor.

Q Now, Dean Komar, let us turn to the appointment of new faculty members.

A Right.

Q That is covered, is it not, on page 6 of Employee's Exhibit 113?

A Yes.

Q Now would you tell us, Dean Komar, how new faculty members are hired at your school? And I'd like you to start at the beginning and describe the process as it typically takes place.

A Okay.

[3143] Q We will assume that someone has left and there is a vacancy to be filled.

A Due to the financial exigency of the past few years there had been a slight change in the policy but now we have reverted back to the old system.

Now we have authority from the president that when someone leaves he may be replaced and so we don't have to go to the president to request permission to fill the slot.

In other words, when someone leaves then the department—when they know someone is going to leave the department involved starts soliciting names of people who might—they might want to hire to replace him.

They write to friends and call colleagues and so forth. When they compile preliminary list of names, they reassemble in a departmental meeting and they go over the list of names and the credentials.

As they zoom in one one or two people they generally would invite them down to give a talk, a colloquy. Once these preliminaries are over, they would typically vote in the departmental meeting as to who to approach first or who to approach.

And once that is decided upon, the department chairman would come to me with the department's recommendation that they want to make an offer to so and so, and I discuss with the chairman at what salary [3144] level to make the offer at, and it has—basically it is within a—a number of factors come to play there. What is he making elsewhere. What is the likely salary at which we could get him to come here and is it within the normal range of salaries within the university.

Q These are questions that you ask the chairman?

A Right.

I would ask him typically what do you think he is earning there. What do you think we would have to offer him to get him to come here.

And he would give me his recommendation of salary, and assuming that it is not something wild and out of the usual range of what we are paying professors currently employed with us, if it is within that range, then the letter is written at that—

Q You have no salary schedule, do you?

A No. We don't have a salary schedule. We have de facto range of salaries.

Q The highest to the lowest?

A Right. As long as the highs were in that range then no problem arises.

If it has to lie outside of the lowest range, of course there would be no problem either.

Outside of the highest range I suppose I would have to clear it with the president.

Q Does the—

[3145] A Although that has never happened.

Q Does the chairman normally recommend a figure to you?

A Yes.

Q Do you generally accept the figure recommended by the chairman?

A Yes.

Q Do you conduct salary negotiations or discussions in a typical situation with the faculty member being hired?

A I never have.

Q Is it the chairman who conducts those negotiations?

A Yes.

Q And brings the recommendation to you in the typical situation?

A In a typical situation the chairman would make the contact and speak to the person; yes.

Q The recommendation that he makes is generally accepted by you in the typical situation?

A Yes.

Q Now, Dean Komar, have you ever refused to make an appointment that was recommended to you by the chairman of the department?

A No.

MR. SHECTMAN: I object to the question. The prior testimony is the recommendations came from the [3146] departments, not from the department chairman.

MR. KRAMER: The question was not bearing on the earlier testimony. I will rephrase the question.

HEARING OFFICER: Thank you.

Q (By Mr. Kramer) I take it you receive a recommendation from the departmental members and for that matter from the chairman with respect to an appointment; is that right, sir?

A Right.

Q And that is a typical case?

A Yes.

Q Have you, during your sojourn as dean, refused to make the appointment recommended?

A No.

Q At no time?

A At no time.

Q Now, Dean Komar, one function of the appointment is salary. Another is length of appointment?

A Right.

Q How is that determined, Dean Komar?

A Again, the department discusses and decides what kind of appointment they want to make, whether they

want to make it for two year appointment or one year or three year or open-ended or—whatever the depart-partmental recommendation is, that is what usually happens.

The one qualification is if the departments [3147] wants to recommend tenure in the appointment that can only be granted by the president of the university.

They can recommend it and they would have to forward it to the president for his consideration.

Q Putting aside tenure recommendation for a moment, is it a fact then that in the typical situation it is the department, including its chairman, that would recommend the length of the appointment to you?

A Always; always.

Q Is it your testimony that that has been regularly accepted by you?

A Yes.

Q Without exception.

Q Have you ever negotiated in a typical situation, have you negotiated with new faculty people as to the length of their appointments?

A Never.

Q Now, let's turn to the tenure point that you raised.

I gather that is not typical for a faculty member to be hired with tenure; is that correct?

A Very rare.

Q When is the last time that happened in your school?

A If I look through the list—I can't think offhand anytime. It may have.

MR. SHECTMAN: Show him the exhibit.

[3148] THE WITNESS: Offhand I can't think of any case. No. There is nobody on this list, no. It has never happened.

Q (By Mr. Kramer) Dean Komar, do you have the atuhority to make appointments on your own without—

A You mean to initiate appointments?

Q To initiate appointments without consultation or recommendation without faculty committee or—

A Definitely not.

Q Now, Dean Iomar, you have told us that several things are recommended by the department, the person to be hired, the salary—strike that.

You told us that you receive recommendations concerning the person to be hired, the salary and the term of appointment; is that correct?

A Right.

Q Now, whose recommendation is it that you are receiving with respect to who should be hired?

A I'm receiving the department's recommendation to hire the particular faculty member.

Q By the "department" you mean a consensus of the members of that department. Is that correct?

A That's correct.

Q Now—Let's focus on salary for a moment. With respect to the salary to be paid, whose recommendation are you receiving? Is it the recommendation of the [3149] department consensus or is it the recommendation of its chairman?

A It is the chairman's recommendation.

Q It is the recommendation that you generally accept?

A Right.

Q Now, let us turn to the question of length of appointment. And I would like you to tell me, you get a recommendation on that, too, that's part of this package so to speak, is it not?

A Right.

Q Is that the recommendation of the department by consensus or is that the recommendation of the chairman individually?

A That fluctuates.

Q Would you tell us about that?

A I would say generally the department discusses how long the appointment should be for. On certain occasions it may happen that the department simply has not discussed it or did not consider it and the chairman may have his opinions and make the recommendation directly.

I can't think of specific cases. I would say more often than not the department does discuss that.

Q By "department" you mean by consensus?

A By consensus, yes, I would say that is the general [3150] rule.

Q Now, you belong to the Physics Department, don't you?

A Yes.

Q Do you participate in meetings of the Physica Department as a member of that department?

A Yes.

Q Do you participate as a member of the Physica Department in the hiring process?

A Yes.

Q Do you participate as a dean or as any other professor would?

A Just as any other member of the department.

Q Now, Dean Komar, do you have the authority to disapprove the recommendation of a new appointment?

A I don't really know. It's never—since it has never happened, and it does not—in the constitution it makes no statement about it.

What I could say is how I view my authority. That's about the best—

Q Why don't you tell us about that?

A I view my position as sort of first among equals. In other words, I could put in—excuse me—I can cause a lot of friction, namely, if the recommendation is—if a recommendation were made which I strongly disagreed with, I could get, say, the ear of the president of the university [3151] to put in my point of view. However, the department chairman or members of the department can and on occasions have gone directly to the president to get their point of view heard and then the president has to weigh one man against the department or one man against a senior member of the department. And then it is the president's decision. But whether I have the authority to say no, I don't think I do. And I know of occasions not specifically with regard to appointments but where individual faculty members simply went directly to the president and they have the authority to do that any time they want.

In other words, I don't have any constitutional authority to oppose an appointment. I can just recommend against it.

* * * *

[3152] Q (By Mr. Kramer) Would you tell us, Dean Komar, how—strike that.

Would you tell us how the chairmen are selected?

A It is stated in the bylaws. They are elected by the faculty with respect to faculty members for three year interval and have to be approved by the faculty committee.

Q I did not hear that last—

A And have to be approved by the faculty committee.

Q Is the actual appointment made by the president?

A According to the bylaws it says the chairmen of the departments are appointed by the president on recommendation by the department, recommendation by the faculty committee and approval of the dean.

In practice, I don't know whether any of them have ever received a letter of appointment from the president.

Q In practice—

A In practice they are elected by the faculty members, chairman, unless the faculty committee chooses to [3153] reject such a recommendation.

Q Now, approximately how many chairmen have been selected during your time as dean?

A Well, every three years, and four departments and so in the six-year period on the average twice, it would have come up twice in each department, offhand.

So eight plus or minus one or two.

Q Out of these approximately eight appointments have you approved all of them?

A No.

Q Would you tell us about that, please?

A One—At one time the Chemistry Department elected one person to be department chairman, and I was opposed to it. I took—So when the case came before the faculty committee for approval, which it has to in any event, I brought my position why I was against this to the faculty committee, and they sustained me on this, in other words, they refused to approve this particular

election, and it was sent back to the—in this case it was the Chemistry Department.

Q As dean of the school, Doctor Komar, do you view the choice of the department chairmen in each of the departments as a significant thing?

A Oh, yes.

Q Why is that so?

A They have to represent their members in other [3154] university bodies. In other words, both within the school and outside the school. And who they chose as their representative, it creates an image for the school and for the department.

Q Now, you opposed a particular choice in the Chemistry Department?

A Right.

Q What were the kind of reasons that motivated you to do that?

A Very simple. I thought tempermentally he would not have—he was a very excitable person, and would frequently become hysterical and have tanreuma and I thought that that would not be a proper image to project outside of the school or the department, for that matter.

Q That would not have been useful in the negotiation with the state, would it have?

A With the state or with the rest of the university, for that matter.

Q Would it be fair to state that the chairmen take part on—in the management of the school?

A That is so.

Q And in the management of the university in broader perspective?

A To a lesser extent.

Q Yes.

[3155] A Yes.

Q Let's turn to the curriculum. Dean Komar, who decides what the schools curriculum is going to be?

A The faculty.

Q I assume the curriculum is what you are offering to your graduate students apart from research; is that right?

A Right.

Q That is the merchandise the school has to display?
A Exactly.
Q And would you tell us how curriculum is set in your school?
A It is set individually within each department. The faculty of the department decides what courses to offer and what curriculum, whether to revise the curriculum and who should teach each course and which semesters it should be given or given—whether to be given at all, whether it should be revised.

All of that is discussed within the departmental meetings, and settled there upon consensus.
Q Do you get yourself involved out—
A Only in the Physics Department, only my own department. I never show up at a faculty meeting [3156] except at—at each departmental meeting. I have never attended any meeting, except that of the Physics Department, of which I am a faculty member.
Q Do you tell the Chemistry Department people what to offer or what not to offer?
A Never.
Q Do you tell the mathematics people what to offer or not to offer?
A No.
Q That is a faculty decision, I take it?
A Right; their prerogative.
Q Does both the quality of the courses and the number and type of course have an affect on people coming to your school?
[3157] A I would hope so.
Q On the number of people coming to your school?
A I would hope so.

* * * *

Q (By Mr. Kramer) And on the quality of people coming to your school?
A Yes.
Q Now, is the level of tuition paid by students taking courses in math and science education departments relevant and important to you?
A The actual tuition they pay?

* * * *

A Yes.
Q Does the tuition level have an effect on the number of students who would participate in such courses?
A Very definitely.
Q Now—
A There's strong competition in the city for such—
Q Why is there such strong competition, Dean Komar?
A This is basically an in-service training type of program for high school teachers. As they get a certain number [3158] of credits, their salaries go up; and, if they get a master's, they get a corresponding increment in salaries.

As such, they have an economic interest in obtaining these credits. Therefore, there are quite a few schools in the New York City area who run such programs. We are one of them. NYU runs one. I think Fordham runs one. City University, and so forth.

So, it's quite a competitive enterprise.
Q Now, turning to last academic year, that time frame, Dr. Komar, was the subject of a tuition increase for students in that department dealt with in your school?
A Yes.
Q Would you give us all the facts and surrounding circumstances, please?
A In general, due to the inflation, it was proposed that the tuition be increased in the various schools throughout the university.
Q Who made that proposal, Dean Komar?
A I don't really know. It was again—much of this is done by consensus.

There is someone directly in charge of questions of tuition. I don't recall his name.

MR. SHECTMAN: Is the witness now referring to persons at the Belfer School or—

THE WITNESS: No. Just, again, in the university [3159] administration there are people concerned with tuition and students and so forth. And there was a recommendation made that the tuition at the various colleges of the university be increased by a certain amount next year and then by a certain amount the year after, and so forth.

Q Now, was that recommendation put in effect at your school for the math—

A For this department, no.

The department chairman objected, pointing out the competitive nature of the program, and the chairman felt that, should the tuition rise in this program, they would lose a substantial fraction of their students. And therefore, for this particular department, there was no increase in tuition.

Q Did the chairman make a recommendation to you?

A Yes.

Q What did he say to you?

A Well, it's a woman.

She said—

Q She.

A Yes.

She simply pointed out what I just said: that, if we raised the tuition, it would—it may undermine the student—the number of students that would come.

And so I forwarded this statement of hers—well, [3160] among others, I forwarded to vice president, and so forth, who is the vice president of business affairs. I don't recall whether I did it directly to him or whether I did it first to the other person whose name I can't recall.

Q Was this recommendation of the chairman accepted and the tuition rise cancelled?

A Yes.

Q Let's turn to salary treatment, Dean Komar, for the 1973-74 school year and the 1972-73 school year.

What role, if any, did the department chairman play in determining the salary increases to be received by the various members of their departments?

A At the time when I have to start considering the budget for the following year, the department chairmen come to me with their recommendations for salaries. And they come to me on a piece of paper; it could be scratch paper or—just listing all the faculty members' names and their recommendations for what the salary should be for the following year.

Q Now, you say it comes to you on a piece of scratch paper.

A Well, they come to see me, and they may write it on the back of an envelope or piece of paper, whatever is available.

Q And they make a recommendation as to the salary in- [3161] crease for each of the members of their department?

A For each of the members of their department, right.

Q Is that their recommendation?

A Yes.

Q Is there any question in your mind that this is not the product of a vote or consensus?

A No. This is their own recommendation.

Q Now, we're focusing on '72-73 and '73-74.

Were those recommendations generally accepted?

A No.

Q All right. Would you explain?

A The actual dollar amount couldn't be accepted because there is—there was a budgetary freeze; the overall budget of the school had to be kept within bounds, and all increases in salaries had to be absorbed by making cuts in other areas of the school. So the actual dollar amount could not be fully accepted. However—

Q Which year was this?

A Both years.

Q Go ahead.

A But the ordering and the orders of magnitude were accepted.

In other words, the priority sequence of the faculty members and the rough order of magnitude of the recommendations were accepted.

[3162] What I mean by that, they may have been shaved $100 or $300 off or even $500 from what was recommended, but the sequence of who gets the most and who gets the next most and so forth, that sequence was left intact.

Q Now, did the determination of the priority of who would get the most, the largest increase, and who would get the next largest increase, and so on down the line,

was that a function of independent judgment on the part of the chairmen?

A Yes.

Q That required him to appraise the function of the members of his department?

A Yes.

Q Now, in your discussions with the chairmen, did you discuss his view of how the members of his department were functioning?

A Yes.

Q Just so that I'm clear, Dean Komar, in each instance the chairmen provided a list of names of the members of their department; is that correct—of his department; is that correct?

A Right.

Q All right.

A Each instance is a very precise statement.

Perhaps there were—on occasion they may have [3163] been done verbally; in other words, it may not have always been a written list.

But they would come—they would discuss each name individually, and generally write it down on paper. On occasion they may say remember this, remember that, remember the other thing; in other words, without writing it down. They expect me to remember it while they're talking.

Q And he would recommend an increase, or she, for each member of the department?

A Yes. Yes.

Q An increase of a particular amount?

A Right.

Q And these increases would have a relationship one to the other within the department?

A Yes.

Q And it is a fact, as you have testified, that, while on—you may not have been able to grant all of the money proposed because of budgetary considerations, you may have granted less, but you nevertheless kept the priority order and relationship; is that correct?

A Yes.

• • • •

[3165] Q (By Mr. Kramer) Now, Dean Komar, after you received the recommendations that you've just described—strike that.

In the last instance, Dean Komar, are the increases given in a particular year subject to approval by the vice president for financial affairs?

A In what we were just speaking about, you mean?

Q Yes.

A Yes, subject to the approval of the vice president for business affairs.

Q Once the increases have been adjusted in the fashion that you've described, is that approval routine or not routine, once there has been a reduction as you have described it?

A Yes. As I recall, I was never questioned—I mean, it was routinely done.

Q To your knowledge, any time you were dean, has the vice president of financial affairs—for that matter, anyone at central administration—interfered with the priority of the department chairmen's rating, the ranking, so to speak, of this annual review that you've talked about?

[3166] A Individual faculty members at times have gone to the president directly over my head and his head and have gotten adjustments—

Q Apart from that?

A Apart from that, no.

Q Is that a frequent occurrence?

A No, it's not a frequent occurrence, but it does happen.

Q On occasion?

A Yes.

Q Now, you told us there was a salary freeze at the university. I think you've made some reference to that.

A Yes, about three years ago, was it, or about four years ago.

Q You told us about 1972-73 and '73-'74.

Prior to 1972-73 were the salaries of the Belfer faculty frozen?

A Yes.

Q Do you recall for how many years that was in effect?

A Two.

Q Now, in 1974-75 has Belfer received a salary increase?

A Yes.

Q And what type of increase was that?

A It was uniform across the board. There was no input at all from the faculty members, chairmen, or myself. It [3167] was just a universal—

Q That was the first time, was it not, that such an increase was implemented?

A Right.

Q Was there a reason for this across-the-board increase treatment, as opposed to the—I use the word "merit" treatment previously afforded?

A Yes.

Q Would you tell us?

A Yes. It was due to these hearings.

On advice of counsel, it was deemed that, if anyone were discriminated against, either by getting more than someone else or less than someone else, the union representative might claim that it was an unfair labor practice.

Q That's your understanding—

A That was my understanding of the reason why this was done.

Q You did not, however, discuss that with me?

A No.

Q So that, when you're referring to counsel—

A This is the understanding that I was given. It was not given by a lawyer.

Q All right.

Now, let's turn to the nonrenewal of faculty appointments.

[3168] Who makes the decision not to renew a faculty appointment? How is that decided?

A The department. The department.

Q How do they—How does the department in a typical case go about deciding that?

A Well, obviously that would be a member who doesn't already have tenure, so he—when his term of appointment is coming up for reconsideration, the department assembles, without his presence, and he is discussed as to whether one wants to renew the appointment or have him leave and have him be replaced by someone else, or whether we would want him as a tenured member or not. I mean, that's all discussed within the department.

And then the department decides what recommendation to make; basically on a consensus basis.

To my knowledge, there has never been a vote on this subject.

Q Dr. Komar, do you have the right, your view of your rights, to require the retention of a faculty member whom the department choses not to renew?

A Definitely not.

Q Now, let's turn to tenure.

What is the procedure utilized in your school for the determination whether a faculty member is to be recommended for tenure?

[3169] A It's quite similar to just reappointment. The department again meets to decide whether they want that particular faculty member to be granted tenure.

Should they so agree, they pass that recommendation on to me, and I then forward that recommendation either directly to the president or to the vice president Fishman, who then forwards it to the president. In the end, tenure can only be granted by the president of the university, though.

Q Dr. Komar, have you ever disapproved a faculty recommendation for tenure?

A No.

Q Have you ever disapproved a recommendation against tenure?

A That—no.

Q In your view of your authority, Dean Komar, do you have the authority to disapprove such a recommendation?

A No.

* * * *

[3170] Q Now, how are standards for admissions set at your [3171] school?

A By the department—respective departments. They review applicants, their credentials, their letters of recommendation, their transcripts, and then the students are discussed at a departmental meeting.

MR. SHECTMAN: At a what meeting?

THE WITNESS: At a departmental meeting.

Q Now, do the departments determine—strike that. What role, if any, do the departments have in determining whether financial aid, apart from tuition remission, will be granted to entering students or students who have matriculated and are proceeding to a degree?

A There are two kinds of funds above tuition remission, above subsistence remission to the student, two sources of funds.

One is a grant given to individual faculty member or, in some rare cases, to a department or, in fact, to the school when there were trainingship grounds some years ago available from the government.

Each department, or the chairmen certainly of each department, and the department as a whole knew how much money was available from these various sources. I repeat, the government, perhaps private foundations, and the university.

Within the context of the money available, the de-[3172] partment would meet and decide which students should be granted money, and how the part should be divided up among them.

Q What other sources are available?

A Well, each department had a different—had its different policies, which are their own.

In the physics department, for example, the general consensus is, when there is money available from research grants, it is pooled and the students are distributed in that fashion.

With a certain few exceptions. Some professors take issue with that and insist that the money available on their grant can only be used for students of their choice who are working on their grounds.

In the chemistry department, that exceptional case turns out to be the rule. The chemists refuse to pool their money and insist that only students which meet with their approval and are working on their grants can be paid out of their budgets.

Q These are predoctoral students?

A Yes.

Q When they work on a grant, they're called research assistants; is that correct?

A That's correct.

Q They are not called research associates, however? [3173] A No.

Q Does the availability of research assistantships have an effect on the number of students and the quality of students you are able to attract?

A Very much so.

Q Now, Dean Komar, would you tell us what process you employ in determining or having determined, as the case may be, the budget for your school?

A Well, basically I look at the previous year's budget, and there are certain increments which I have no control over: namely, increments that—for secretarial staff and technicians which are predetermined through other agreements outside of the school with the university, and I have to simply absorb those increments.

Then there are the faculty increments, which I've already discussed how that takes places.

And, finally, there are supplies and—where I just try to get some input from the various people in the school, individual faculty members, department chairmen, lab management, in what ballpark of figures they would need for supplies, and whether there are any other expenses one should—one will have to anticipate, such as purchase of new equipment or servicing of old equipment, and put in an estimate of what that might come to in the next year.

And all of this—when all of these recommendations [3174] are assembled, they're all put into a preliminary budget and totalled.

The total typically exceeds the previous year's budget, and I am under instructions not to exceed the pre-

vious year's budget. And so then I have to find out what can be cut out to come down to the previous year's budget.

And there again it's subject to discussions and negotiations, up and back, whether a secretary can be dropped or moved over to a grant, or whether a technician is really necessary who is being paid for from university funds, or whether he is working for a grant and can be charged for grant funds.

It goes up and down, until finally I come back with somewhat reduced budget, which then exceeds the previous year's budget, and then I throw up my hands and present it to the vice president.

Q What role do the—What role, if any, do the department chairmen play in this budgeting process?

A Very essential one. They're the ones who make the estimates of what they will need in the nature of supplies and services, equipment, and what have you. They're the ones that present me the estimates of what will be required. I have no way of knowing what they will need.

Q Do they get that on some kind of vote or consensus—.

A It's a consensus. They talk to their faculty members. [3175] They know what's doing in their department. They know what was spent last year in those categories.

And, as a result, they reach some sort of consensual estimate.

Q Dean Komar, who decides whether students are performing adequately in your school?

A The department. The faculty members in the department.

Q Who sets the standards for adequacy?

A The faculty members of the department.

Q And do the faculty members have it within their province to flunk students out of your school?

A Yes.

Q In the math and science education department, does the chairman teach one less course than the regular load?

A Yes.

MR. SHECTMAN: That's one department?

MR. KRAMER: Math and science education department, which is one department.

Q Is that to offset the administrative functions of the chairman?

A Yes.

Q Now, the other chairman, chemistry, math and physics, teach how many courses on an average?

A An average they teach the same as the other members [3176] of the department.

Q Which would be again?

A Two courses a semester.

Q Can it sometimes be even less than that?

A It can be less. However, other faculty members sometimes also teach less.

Q I understand that.

And they receive no other stipend or further reduction in course load as a result of their being chairmen?

A That's right.

* * * *

[3179] Q Do the department chairmen play a larger role in the selection of part-time faculty members than they do in the selection of full-time faculty members?

A If by a larger role do you mean am I less involved, the answer would be yes. But, I mean, they would do it again in censensus with their department. I mean, they would not do it without taking—getting the agreement of their department.

Q You are even less involved in the part-time hiring than you are in the full-time hiring?

A Right, if it's possible to be less involved.

Q Dean Komar, in addition to your administrative chores as dean, do you get involved in research?

A Yes.

Q You have an academic function in the research area?

A Yes.

Q And you also teach?

A Right.

* * * *

[3183] Q Now, you have an assistant dean, do you not?
A Yes.
Q What's his name?
A Charles Patt.
Q Is he a member of the faculty?
A Yes.
Q What is his rank?
A He's an assistant professor in the mathematics department.
Q How many courses a term or a year, as the case may be, does he teach?
A One course each semester generally.
I'm trying to recall whether he's not teaching two courses this semester. I vaguely remember, but I'm not [3184] positive. He generally teaches one course per semester
Q And does he presently have a research grant?
A No.
Q Has he had a research grant in the last three years, to the best of your recollection?
A He's never had a research grant.
Q Never at any time to your recollection?
A He does no research.
Q So that I am correct—Am I correct that Professor Patt teaches only one course each term?
A Right.
Q Not four courses each term?
A No.
Q Now, if you can recall—And he does no research?
A Right.
Q Can you recall Professor Patt's salary?
A It's in the low twenties, over $20,000 a year.
Q Would you doublecheck that figure for me for the next hearing, please? Make a note of that.
I assume we're going to finish today and we'll be back here.
HEARING OFFICER: We might.
A I think it's 23,000.
Q Would you just check it just so the record has a firmer figure in it?
[3185] A Okay.

Q Would you tell us as best you can, Dean Komar—strike that.
Does Professor Patt have tenure?
A Yes.
Q He's eligible for Blue Cross-Blue Shield major medical?
A Yes.
Q And life insurance?
A Right.
Q He teaches only one course each term?
A Right.
Q And does no research?
A Right.
Q What else does he do, Dr. Komar?
Would you go sowly and try to get all the various duties?
A He's assistant dean, and as such he has responsibility for innumerable things. He is in charge of grant accounting, preparation of grant proposals, charging and billing to grants, expenditures.
He's in charge of keeping track that the correct reports are made concerning hours taught, faculty workloads. He's in charge of seeing that curriculum requirements on the part of students are fulfilled.
[3186] He provides liaison with the registrar's office and with the student admissions office concerning new applicants to—applicants for degrees, that they have fulfilled the appropriate credit hours and requirements, language requirements.
Let me see. He's in charge of measuring the various schedules of classes and assignments of rooms and hours to see that there are no conflicts in assignments of courses and hours and credits, what have you.
He would have to—he frequently has to negotiate with the individual faculty members to see to it that the university's interests are protected in writing budgets for grant proposals, that the appropriate categories are placed in the budgets, such as appropriate amount for secretarial services, for overhead, for supplies.
He sees to it that they don't overspend in these categories or that, if they want to make a transfer from

one category to another, it's permissible if the faculty member claims it's permissible and there's a disagreement. He frequently has to call Washington and check the agency and obtain written approval to find out whether it is permissible or not.

I mean, all questions of this sort are done by Patt.

* * * *

[3187] Q (By Mr. Kramer) Now, you've told us, Dean Komar, that Professor Patt—Mr. Patt is involved in grant accounting?

A Right.

Q Tell us what that entails.

I'm not presupposing here a great detailed knowledge of the procedures, but I'd like you to tell the reader of the record something more than what you've just said to give him a feel, and us a feel, of what's involved in that.

A Principal investigator has a grant with a budget. The budget is—has to be approved by the agency, the federal agency giving the grant.

Once the budget is approved by the federal agency, then the principal investigator proceeds to make charges against that budget for supplies, for bringing in colleagues, assistants, associates, consultants. They take trips, they [3188] charge it to their account, and so forth.

Then there are categories in the budget which they use but which the university bills them; for example, secretarial services or overhead or supplies—computer time or use of the xerox machine, all this is billed against categories in the grant.

Now, Dr. Patt has to keep track of these charges to see that none of the categories are overspent.

Q In other words, the money is the university's money; is that correct?

A The money is given to the university by the federal government.

Q And it is represented by a grant; is that right?

A Right.

Q It's Patt's function, in the first instance, to make sure that the faculty members in your school do not overspend their grants?

A Right.

Q Do not—for personnel?

A For personnel.

Q Or for overhead?

A Right.

Q Or for equipment?

A Right.

Q That's his function, one of his functions?

[3189] A Yes.

Let me give an example how they could overspend on overhead. It sounds rather odd.

Q I prefer at this point to go on.

A It's a source of conflict between Patt and faculty members.

Q You know, witnesses of this intellectual quality, counsel will bend. Go ahead, Dean Komar. I don't have very many experts in general relativity testifying.

A Personally I'm not lecturing on general relativity at the time.

A frequent source of conflict between Patt and the principal investigator is when the principal investigator attempts to transfer funds from a supply item to a salary item.

The reason why is that overhead is computed only on salaries, not on supplies. So, if he takes $1,000 out of supplies and puts it into salaries, he would like to spend $1,000 on salaries of hiring personnel.

But he cannot, because as soon as it's put into the salary column, 50 percent of that has to go as overhead to the university.

So, if he wishes to, for example, spend $1,000 on salary, he would have to transfer $1,500 out of supplies. And that's a frequent source of friction.

[3190] Q And under these circumstances, you say it's a source of friction.

Does Patt—Patt has, I would assume, authority in the first instance in this situation; is that correct?

A Yes. To simply refuse—I mean to simply insist that, if he wants to spend $1,000 on salaries, he has to transfer $1,500 from supplies, yes.

Q Now, you've told us that Patt has a role in grant preparation and the charging and billing to accounts.

A Right.

Q Without duplicating your prior testimony, would you tell us what this is all about?

A When a grant proposal is prepared, the principal investigator prepares the scientific part of the proposal in its entirety. The budget he will give to Dr. Patt, his estimates of what it is he wants to include in the budget and how much he proposes to request in funds.

Patt then has to prepare it in the proper format to see that the other cost factors of the university are included within the budget, such as the overhead, such as secretarial services, such as fringe benefits. All of that the principal investigator generally forgets about when preparing a budget.

Q Is there—I know the reader—the reader of the record of course can't get the inflection in the voice. [3191] When you say he generally forgets about it, and smile, which you've just done, what do you mean by that? I gather there's a secondary meaning within what you're saying.

A Yes.

Very frequently he chooses to forget about it because he feels that the granting agency has a limited amount of funds to give him, and he wants the funds spent exclusively on the research part of the proposal and is reluctant to have a large portion of that fund spent on the mandated items.

Q Are faculty members generally required to put in the grant application to include the university's share of expenses?

A They're requested to.

Q And do they do so in most instances?

A Fifty-fifty. I mean, they—it depends on the—it depends on the faculty member. Sometimes they do; sometimes they refuse.

Q And I assume it is Patt's role to make sure that the grants go in properly?

A Yes.

Q Regardless of whether the faculty member has put it in or not?

A Well, he—it's his role to do that, yes, to insist [3192] on that.

Q Is that a source of friction between Patt and the faculty members as well?

A Yes, very frequently.

Q Now, you've told us that Dr. Patt corrects reports—I'm not using your exact words but, as close as my notes will show, corrects reports about the hours taught by the faculty and faculty workloads.

A Yes.

Q Would you tell us what is involved in that, Dr. Komar?

A Well, there are two parts involved. One is that the university requires information as to who is teaching which courses for which hours, what semester; that the university requires.

Patt has the duties to assemble this and provide it to the university.

However, there is a new feature—new, that is—required by the government for people working on grants. The government, basically the NIH, who does the principal monitoring for Yeshiva University, their aduitors require that the—that each principal investigator certify the hours that he put in on his grant each month, and the hours that are put in by any person employed on his grant each day. And he—and the principal investigator has to certify this for the federal agencies. [3193] And Patt has to check on—to assemble this, collate it, to check that it's really being done properly, and forward it on to the business office.

Q Do you check that it's really being done?

A No.

Q Does the president of the institution check that it's really being done?

A No.

Q Does the vice president of financial affairs check that it's really being done?

A No.

Q It's Patt that checks that it's really being done; that's a fact, is it not?

A He is the—he is the first line of—in the administrative tier that checks what is being done.

Q It's up to him—
A The extent to which he does it I'm not going to testify.
Q He has the responsibility to see—
A He has the responsibility.
Q And the authority to do it?
A To check? Oh, yes.
Q Now, is it a fact that Professor Patt gives faculty their room assignments?
A Yes.
[3194] Q And that he also gives them their course assignments as to when the course will be taught?
A That less so. That—it's generally the faculty member expresses a preference, and he then will mediate preferences if there are conflicts.
Q Now, I want to stick with the room assignment for a moment. That he does?
A Yes, that he does.
Q Now, with respect to times he seeks to mediate conflicts between faculty members?
A Right. If there are conflicts in schedules, yes.
Q And, Dean Komar, you've told us that you teach?
A Yes.
Q And you do research?
A Yes.
Q And you're also an active dean of the school?
A Yes.
Q Were Mr. Patt not available—or, Professor Patt not available to do the administrative chores that you've just outlined, would they fall to you to do?
A They would be my responsibility to see to it that it's done, yes.
Q When—how often are you away from the school, Dean Komar?
A You mean all totalled in a year, or per week? I'm [3195] not quite sure how you want it.
Q Give it to me both ways.
A Well, most weeks I am generally there four or five days, but I can be away for blocks of time like several weeks or in fact a month or two at a time.

Q Several weeks or a month or two while the school is functioning?
A Well, the month or two would be more often in the summer. But the school functions in the summer. The teaching doesn't go on, but the school is open, and there's research going on and laboratories. There's just no classes given in the summer. The libraries are open in the summer.
Q When you're away from the school, would it be fair to say that Mr. Patt is in charge?
A Yes, definitely, yes.
Q Dr. Komar, you know Professor Musher?
A Yes.
Q Is Professor Musher currently in the employ of the university?
A No. He died.
Q When did he pass away?
A Last October, I think it was.
Q When you say last October—
A Previous October.
[3196] Q October 1974?
A Right. I think it was in October.
Q In other words, long after the start of the initial proceedings in this matter.
A Yes.
MR. KRAMER: By "initial proceedings," I mean what we call the first case, which is represented by Board Exhibit 2 and the many exhibits appended thereto.
HEARING OFFICER: Yes, I understand.
Q And who replaced Professor Musher?
A Professor Beck.
Q When did Professor Beck first come to work in your school?
A I think summer of 1974. Summer or fall, that I'm not positive.
Q But it was prior to the death of Professor Musher?
A Yes.
Q Did Professor Beck work on Professor Musher's research grant?
A Yes.
Q That's a fact, I take it?
A Yes.

Q Now, he didn't come to the university, did he, until the summer of '74?

A Right.

[3197] Q Now, do you know a Professor Malliavan? I'm going—

A Malliavan.

Q Malliavan, M-a-double l-i-a-v-a-n?

A Yes.

Q Does he teach as your school?

A I don't recall whether he gives a course or a seminar. But I guess you would say he teaches. It may not be a course listed in the catalogue; it may just be an advanced seminar.

Q In other words, you have some courses that aren't listed in the catalogue?

A Oh, yes.

Q And he teaches at your school.

Does he also during the course of an academic year teach at some other school?

A Yes.

Q Would you tell us about that, please?

A He's very prominent member of the faculty of the Sorbonne in Paris.

Q Would you explain how this prominent faculty member at the Sorbonne comes to teach at your school and also at the Sorbonne during one year—each year?

A Well, for one semester each year for the past two or three years, I guess, Professor Ehrenpreis of the mathe- [3198] matics department has a grant and invites him to come, essentially hires him to come here. One doesn't call it hiring at this level; it's called inviting.

Q Now, Dean Komar, is Professor Malliavan a member of the faculty of the Belfer School, or is he a full-time faculty member or part-time faculty member?

A He's a visting faculty member, I guess you would call it, full-time when he's here. He's visiting full-time.

Q One semester a year?

A Right. Right.

Q And is he on the payroll of the university?

A Yes.

Q And he draws the money—the money to pay him is drawn from Professor Ehrenpreis' grant; is that right?

A Right.

Q And is Professor Ehrenpreis he who invites him to come?

A Yes.

Q Who chooses him to come?

A Yes.

Q Selects him to come?

A That's right.

Q With this—strike that.

Now, I show you Employer's Exhibit 62, which is appended to Employer's—Board Exhibit 2, which is in evidence.

[3199] Did you prepare this exhibit (handing to witness)?

A It was prepared at my request, yes.

Q But did you prepare it?

A Personally, no.

Q So that you did not prepare this exhibit?

A No.

* * * *

MR. KRAMER: I will stipulate with counsel that this exhibit was introduced on June 27, 1974.

MR. SHECTMAN: So stipulated.

* * * *

[3200] Q This exhibit does not detail any fact that took place after June 27, 1974.

A Right.

Q In fact, Dean Komar, have additional grants been granted to members of your faculty since June 27, 1974?

A Yes.

Q And have some grants been completed since June 27, 1974?

A Yes.

Q By the way, you don't handle the grant accounting, do you?

A Nor the completion dates, termination dates, or any of that. That's handled by Dr. Patt.

Q You are generally aware of the grant situation in—

A Yes.

Q In fact, you sign—normally sign each of the grants?
A Yes.
Q Before they're sent in to the government for processing?
A Yes.
Q By that, I mean the grant application.
A The application I sign, not when they're granted by the government, just the application.
Q I see Professor Musher is listed on the first page of this exhibit, Musher, J.
[3201] A Right.
Q That is the professor who passed away since June 27?
A That's right.
Q And Professor Beck, who you referred to in your testimony, is not listed; is that correct?
A That's right.
Q That would be because he came afterwards?
A That's right.
MR. SHECTMAN: Is counsel implying that Professor Beck is a member of the Belfer full-time faculty and is a principal investigator to which this exhibit is directed?
MR. KRAMER: Professor Beck is whatever the witness testified he was. I believe the witness testified that he's a full-time member of the faculty.
THE WITNESS: That's right.
MR. KRAMER: And he's taken Musher's place on that grant. And he has—
MR. SHECTMAN: I don't think this witness has testified to that.
THE WITNESS: No, I haven't.
MR. KRAMER: All right. Strike that.
He's testified that Professor Beck was working on that grant during the summer; that it's not reflected on this exhibit because the exhibit came in June 27.
THE WITNESS: Right.
[3202] Q (By Mr. Kramer) Who has replaced Professor Musher on his grant, if anyone?
A Professor Beck.

Q That grant, I take it, is one of those grants continuing; is that so?
A It is continuing.
Q Now, I see Professor Malliavan's name on page 2 of this exhibit.
Is that the Professor Malliavan that you've just discussed?
A Yes.
Q By the way, is he the only visiting professor who is listed on this exhibit?
We're only referring now to your school. There are two schools covered by that exhibit.
A The only visiting professor listed on this exhibit, yes—no. I see Bergman is listed. And—well, he's part-time.
Q He's part-time.
A You mean visiting?
Q Exactly.
A Oh, visiting.
I guess it's only—I only see Mulliavan's name listed in that category.
Q And Mulliavan was listed under the heading involving [3203] other full-time faculty under grant?
A Right.
Q If Professor Mulliavan is not ultimately considered a full-time faculty member, he would not belong in that column; is that correct?
A That's correct.
Q He would belong in a column visiting faculty?
A Visiting faculty.
Q Or visiting full-time faculty, as the case may be?
A Right.
Q Now, although this exhibit—I'm not asking you now to update the exhibit, but, although this exhibit clearly states one visiting faculty member who participated in grants or under grants or worked under grants during 1972-73 and '73-74, in fact were there other visiting professors who worked under grants during 1972-73 and '73-'74?
A Yes.
Q Now, could you give us an idea of how many such visiting professors were employed on the grants?
And we're asking only for an approximation.

A About a dozen.
Q For 1973-74?
A Yes.
Q How about 1972-73?
A About the same.
[3204] Q Now, for 1973-74, could you give us some idea of the amount of time—I don't mean now research hours, but how long these visiting professors stayed at your school to do work under these research grants?
A Some would come for several weeks; some for a month or two; some for a few days. It varied all sorts of possibilities. Some for a whole semester.
Q You told us that Professor Mulliavan came for a whole semester.
A Right.
Q Are there any others you can recall by name who came for a whole semester the last academic year? If you can.
A I can't recall, no. I can think of some who came for extended periods, but I just don't recall how long the extended periods were.
Q Can you tell us who came for extended periods?
A Oliver Penrose—what's his name?—Oscar Lanford, L-a-n-f-o-r-d, Elliot Leel, L-e-e-l.
There were others. I can picture their faces. It takes a while to recall their names. There were quite a few others. I can't recall the names at the moment.
Q You told us about Professor Mulliavan. He taught last year too, did he not, for a semester?
A Yes.
Q Who established his salary?
[3205] A Professor Ehrenpreis.
Q You didn't negotiate the—
A I don't even recall what it is.
Q Now, who selected the visiting professors that worked at your school during 1973-74, the people you've named, the dozen or so you've named?
A The principal investigator.
Q In each instance?
A In each instance.

Q Did he also establish the salary?
A Yes.
Q For each of the vising professors?
A Yes.
Q Did these visiting professors engage in research?
A Yes.
Q Do they teach some classes?
A Some did; some didn't.
Q Did they engage in colloquia?
A Some did; some didn't.
Q Who decided what they would do?
A The principal investigator.
Q In each instance?
A In each instance.
Q You didn't decide, did you?
A No.
[3206] Q Professor Patt didn't decide, did he?
A No.
Q The president of the university didn't decide?
A No.
Q Just the principal investigator?
A Right.
Q In each instance?
A In each instance.
Q Was that also so in 1972-73?
A Yes.
Q Does that situation exist today, Professor Komar?
A Yes.
Q You have visiting professors at this school for 1974-75?
A Right.
Q On the same basis that you had them for '73-'74?
A Yes.
Q These visiting professors that were're talking about, when they visit, in essence, act like full-time employees, I would take it?
A Yes.
Q To that extent they're different than the visiting part-time professors that have been talked about in this proceeding?

A They're different. I wouldn't say that they're more [3207] or less similar to the full-time. I mean, they're just different.

They are different in the sense if they teach a course or if they give a seminar or whatever they do is not determined by the department by consensus but by the principal investigator exclusively. In that sense, they're quite different from the others.

Q Now, when these visiting professors are at the university—I'm talking about the ones at Belfer—

A Right.

Q —the ones that you've just testified about, are they employees of the university?

A Yes.

Q They draw a paycheck from the university?

A Some are paid by a paycheck; some are paid by a check, a university check, but it's out of funds—it's not out of salary funds, but, say, out of consulting—

Q They get a university paycheck?

A Yes.

Q Regardless of the source of the funds.

A Right.

Q And there is withholding taken from that paycheck?

A For the Americans, yes; not for the foreigners.

Q For the Americans?

A Yes.

[3208] Q They're covered by the university's workmen's compensation?

A I wouldn't know. I assume so, but I don't know.

Q There's no question in your mind that they're not employees of the principal investigator?

A No. No.

Q Therefore, they're employees of the university?

A Right.

Q Selected by the principal investigator?

A Yes.

Q And, if a principal investigator is happy with the functioning of the visiting professor, it's within his authority to invite that professor back the following year?

A Yes.

Q And this is exemplified by the Ehrenpreis-Mulliavan situation, right?

A Yes.

Q If he's not, it's within his power not to invite him back?

A Yes.

Q Returning to this exhibit, Dr. Komar, I see a term "predoctoral fellow."

Is that the same as a research assistant?

A Yes.

[3209] Q You've used that term in defining research assistant for us before; is that correct?

A That is correct.

Q I see the term "faculty associate."

A Right.

Q Is that—Does that term have any different meaning from the term "research associate"?

A No. It's the same thing.

Q So the fact that there are different names does not imply a different meaning?

A No.

Q I see a reference to a "full-time fellow" on page two.

A Yes.

Q Is that in reference to Professor Mulliavan?

A Yes.

Q Would that more properly be called a visiting professor?

A Yes.

Q To the extent that he's called a full-time fellow in this exhibit, full-time fellow, the exhibit should be corrected?

A That's right.

Q Now, remember we're dealing with the time period from June 27 back to the beginning of the 1972—'73-'74 school year and before when we talk of this exhibit.

[3210] A Right.

Q On the third page of the exhibit there's a Professor Raccah, correct?

A Right.

Q Now, next to his name there is no listing of full-time faculty working under the grant, no listing in column four.

A Right.

Q Is that correct?

A That's correct.

MR. SHECTMAN: You are referring, are you, now, Mr. Kramer, to the fourth page?

MR. KRAMER: I stand corrected, Mr. Shectman. It is the fourth page.

Q To the best of your recollection, Dean Komar, prior to June 27, 1974, were there in fact full-time faculty working under Professor Raccah grants?

A Yes.

Q Who were those faculty, as best you recall?

A Professor Halpern, Professor Bell and Professor Pollack.

Q These are not listed on these exhibits?

A Right.

Q To the extent they're not listed, this exhibit is in error, I take it?

[3211] A I guess so.

Q And should be corrected by adding those names?

A Yes.

Q Now, I show you Employer's Exhibit 129, Dean Komar. Professor Halpern's name does not appear on that exhibit; is that correct?

A That's correct.

Q Was he inadvertently left off?

A No.

Q Is he working for the university?

A He's no longer employed with the university.

Q Will you tell us the facts and circumstances of how Professor Halpern, whom I think you've identified as a research professor in your prior testimony—

A Right.

Q —is no longer working for the university?

A Professor Raccah decided to dispense with his services.

Q Had his services previously been dispensed with by any other principal investigator?

A He was previously employed under a national science foundation departmental development grant under the direction of Professor Liebowitz.

He was then, when he—Professor—I don't recall whether the funds ran out in that category or whatever, but Professor Liebowitz decided to have him go off that [3212] grant, and Professor Raccah then employed him under one of his research grants.

Q Did Professor Liebowitz's decision to either hire or terminate the services of Professor Halpern under the grant require your approval?

A No.

Q Did it require any financial officer's approval?

A No.

Q Did it require approval of the president of the institution?

A He was not involved, no.

Q It was Professor Liebowitz, wasn't it?

A Yes.

In the case of the hiring of Halpern, I don't know who was consulted. But, in the case of terminating him, no one was consulted. Perhaps Raccah was, but I don't really know. I was not involved.

Q Who decided to place Halpern on Liebowitz's grant?

A Liebowitz.

Q By "hiring," that's what I mean.

It was Liebowitz who decided to take him on?

A Yes.

Q It was Raccah who decided to hire him, or assign Professor Halpern to his grant?

A Right.

[3213] Q And it was Raccah who decided to dispense with his services and terminate him?

A Right.

Q As a result of that termination, Professor Halpern left the employ of the school; is that right?

A Right.

Q I mean of Yeshiva University.

A That's right.

Q No other principal investigator, I take it, was willing to hire him?

A No.

Q Or utilize his services?
A No.
Q Have there been other situations like that from time to time?
A Yes.
Q Would you tell us about that, Professor Komar?
A Well, there are dozens of people who come and go in this capacity, and I don't keep track of them at all. It never even crosses my desk.

You mean--I mean occasionally I see their names. If I wanted to, I could look up the charges and find out who they are. But basically there are names—in anticipation of this hearing, I looked through some of the files, and I found names that I had never even heard of before.
[3214] Q These are research professors of the type we're talking about?
A Yes.
Q I'm not talking about research associates.
A No. These are professors, PhDs, and they're not typically research associates.

* * * *

[3220] HEARING OFFICER: On the record.

In the off the record discussion, the parties reached agreement on a number of points, stipulations, which I will read into the record and ask for the parties agreement to them.

The first stipulation has to do with the Rabbi Isaac Elchanan Theologic Seminary, referred to in the prior testimony as RIETS, R-I-E-T-S.

For purposes of this hearing, RIETS shall not be considered a part or division of Yeshiva University, and any services performed at RIETS shall not be considered [3221] in determining full time or parttime status of the individual at the University.

Further, the Community Service Division referred to earlier as CSD, and the Cantorial Training Institute, referred to here in as CTI, are divisions of RIETS, and therefore services performed at CSD, or at CTI, shall not be considered in determining the full time or part-time status of individuals at Yeshiva University.

The final part of the stipulation has to do with Yeshiva University High School, which the parties agree is not a part or division of Yeshiva University, and therefore such services performed at the Yeshiva University High School shall not be used in determining full time or part-time status at Yeshiva University.

Do the parties agree to the stipulations as stated in the record?

Mr. Bodner?

MR. BODNER: Yes, Mr. Hearing Officer, with the understanding that some individuals associated with RIETS and or CSD, and or CTI, and or Yeshiva High Schools, may have teaching responsibilities in Yeshiva University as herein before referred to, so that the stipulation is intended to exclude only that part of their service for the respective entities previously referred to, namely RIETS and or CSD and or CTI, and or the Yeshiva High Schools.

[3222] HEARING OFFICER: Mr. Shectman, do you agree to the stipulation that I read into the record?

MR. SHECTMAN: Yes, I accept that stipulation.

So stipulated.

* * * *

RABBI HERBERT C. DORINSKY

was called as a witness, having been first duly sworn by the Hearing Officer, was examined and testified as follows:

[3223] HEARING OFFICER: Go ahead, Mr. Bodner.

DIRECT EXAMINATION

Q (By Mr. Bodner) Rabbi Dobrinsky, will you tell us what your position is at Yeshiva University?
A I am the executive assistant to the president.
Q To the president of the University, Dr. Samuel Belkin?
A Yes.
Q How long have you held that position?
A Since July 16, 1973.

Q Did you previously hold any other positions at the University?

A Yes. I was the associate director of the Community Service Division.

Q Okay.

A CSD, at RIETS.

MR. BODNER: I would just note, Mr. Hearing Officer, that the CSD just referred to by Rabbi Dobrnsky, is the subject of a stipulation that was previously entered into the record, and I will not further inquire as to its nature.

Q (By Mr. Bodner) Rabbi Dobrinsky, when was the Sephardic Studies Program formed at Yeshiva University?

A In 1946.

Q Would you describe for us the nature of the Sephardic Studies Program?

[3224] A The Sephardic Studies Program was founded by Dr. Samuel Belkin, president of Yeshiva University, and the Haham, H-a-h-a-m, Rabbi Dr. Solomon Gaon, G-a-o-n, Chief Rabbi of Sephardic Jews of the British Commonwealth, who came to Yeshiva University at that time as a visiting lecturer.

The other program founded at the same time was the Sephardic Community Activities Programs—Program, which is located under the aegis of CSD.

I was appointed as director of Sephardic Community Activities, at that time, and have for the past ten years, continued to direct that particular program.

Q Would you briefly describe for us, Rabbi Dobrinsky, what you mean by Sephardic Community Activities?

A The Sephardic Community Activities Program includes all programs relating to the Sephardic community in America, and by that I mean the United States and Canada, Latin America, in particular the more than seventy Sephardic congregations which exist in North America, by providing a program of synagogue leadership conferences, cultural activities, such as the annual Sephardic cultural festival, hosting the American Society of Sephardic Studies, which is an autonomous group of academicians, of all faiths interested in Sephardic studies,

who meet each year at Yeshiva University, placing of Rabbis, Hazzinim, (Cantors).

[3225] MR. SHECTMAN: If the Witness will pardon me for interrupting at this time, if I may, Mr. Bodner, the testimony indicates that the Sephardic Community Activities Program is under CSD.

I think it's generally understood already the nature of this program, and rather than extend the record, I think we can—I would move or ask that we limit testimony in this regard.

MR. BODNER: Yes.

I had only inquired as to the nature of the activities to clarify that the Community Actvities Program, the Sephardic Activities Program, is a part of one of the affiliates, and I take it that is correct, Rabbi Dobrinsky?

THE WITNESS: Correct.

MR. BODNER: So it is clear for the record, we are distinguishing between the Sephardic Studies Program and the Sephardic Community Actvities Program, and as to the latter, namely the Sephardic Community Activities Program, it is correct, I take it, Rabbi Dobrinsky, that this is a part of the Community—this is a part of the Community Service Division?

THE WITNESS: Correct.

MR. BODNER: This is a part of the Community Service Division, which was the subject of a previous stipulation of exclusion.

[3226] So that I will not go into any further details as to the Sephardic Community Activities Program.

I will continue my testimony of Rabbi Dobrinsky as to the other element, and that is the Sephardic Studies Program.

Q (By Mr. Bodner) Rabbi Dobrinsky, with regard to the Sephardic Studies Program, just so that it is clear for the record, does the Sephardic Studies Program offer degrees of its own?

That is, can you receive a degree from the Sephardic Studies Program, a Bachelor's or Masters degree?

A Not a degree of its own.

Q Okay.

Does it offer course credits of its own?

That is, can one receive credit listed as being from the Sephardic Studies Program or a degree?

A No.

Q Or—

A No. One can major in Sephardic Studies, as a part of the Erna Michael College program, but the degree will be the regular Bachelor of Arts degree, Hebraic Studies diploma, or the Bachelor of Science degree or the Hebrew Teachers' diploma.

Q I see.

A Of the Erna Michael College. But it is not specifically [3227] and exclusively a degree for Sephardic studies.

Q So that the Sephardic Studies Program is not a school or degree granting institute unto itself, is that correct?

A That is correct.

Q And it does not issue transcripts of its own?

A That is correct.

Q Rabbi Dobrinsky, you mentioned the Sephardic Studies major in Erna Michael College.

Would you describe that for us, please?

A I—

Q Or I should say affiliated with Erna Michael College?

A The Erna Michael College curriculum, provides for a Bachelor of Arts and Bachelor of Science degree, and students may also qualify for Hebraic Studies diploma or Hebrew Teachers' diploma.

Under the Bachelor of Arts program, a student may persue a secondary concentration in Sephardic studies, while preparing for a position in the Jewish community as an educator in general, and in particular to serve the needs of Sephardic schools.

A major in Sephardic studies is offered in the programs leading to the Bachelor of Science degree, the Hebraic Studies diploma, or the Hebrew Teachers' diploma.

[3228] Now, the requirements for this particular major are that all of the courses in the Erna Michael College catalog, in all disciplines numbered 70-79, while open to all students, are designed for those who wish to concentrate in Sephardic studies.

They are listed in a document that I can present to you, if you wish, or I can stipulate them as Education 77-78, History 5.1, 6.1, and 4 of the following courses. 71, 72, 73, 74, 75, 76. Those are all history courses.

Q Can I just interrupt for one moment?

MR. BODNER: Off the record.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

MR. BODNER: Rabbi Dobrinsky, you were referring in your testimony to a document that you were holding, and I will offer this document for identification as Employer's Exhibit 132, the document being entitled Erna Michael College of Hebraic Studies, Yeshiva University, Sephardic Studies Major.

(Whereupon, the above-mentioned document was received as Employer's Exhibit No. 132 for identification.)

MR. BODNER: I will simultaneously offer for identification as Employer's Exhibit 133, a document entitled [3229] An In-Department Report on the Progress of Yeshiva University's Sephardic Studies Program, and Sephardic Community Activities Program, with the additional designation on it, September 1971-September 1972.

I would note that the document marked for identification as 132 is—constitutes an update of a significant part of the Sephardic Studies Program, namely that part involved in the Erna Michael major in Sephardic Studies, and while Employer Exhibit 132 has not been formally adopted by the University, Rabbi Dobrinsky has read through it and will indicate any parts of it as to which there is still some uncertainty as to its final adoption.

(Whereup, the above-mentioned document was received as Employer's Exhibit No. 133 for identification.)

Q (By Mr. Bodner) Rabbi Dobrinsky, would you just identify for us on what page of the document marked

for identification as Employer Exhibit 132 there is a listing of those courses offering in the Erna Michael College that are part of the Sephardic Studies Program.

A Pages 2, 3 and 4. That is Erna Michael.

The bottom portion of page 4 we have graduate level Sephardic Studies courses, and the reason that that's included here is because some selected upper classmen may, with the approval of the dean of Erna Michael, and the dean [3230] of the University's Bernard Revel Graduate School, take graduate courses for undergraduate credit.

Q I see.

A And the instructors for these courses are drawn from the faculty of the Bernard Revel Graduate School, and on page 5 there's a listing of, and on page 6, there are listings of those courses that would be considered as graduate courses which may be taken by Erna Michael students for undergraduate credit.

Q I notice, Rabbi Dobrinsky, in Employer's Exhibit 133 for identification, there was also contained a list of courses of the Sephardic Studies Program at Erna Michael College, on pages 1 and 2 thereof, and is it correct to assume that the courses listed in Employer Exhibit 132, referring to Erna Michael College, essentially are an update of the courses listed in 133?

A That is correct.

There are some courses listed in this Exhibit 132, which are not listed in Exhibit 133.

Q Now, in addition you referred to Sephardic Studies Program courses in the Bernard Revel School.

Would you briefly describe whether credit is given for those in the Bernard Revel School, and that constitutes the courses of the Sephardic Studies Program in the Revel School?

[3231] A The formal major in Sephardic Studies is currently available only in Erna Michael College.

However, there is a study presently under way in the Bernard Revel Graduate School, by faculty and—asking for the suggestions of our visiting Professor of Sephardic Studies, who serves in the Bernard Revel Graduate School, as well as in the Erna Michael College, a program of Sephardic major is being formulated in the

Bernard Revel Graduate School.

At the present time, there are many courses of Sephardic interest in the Bernard Revel Graduate School, which have attracted a number of Sephardic students, but the program is not formalized as a Sephardic major in the same way, yet, as it is in Erna Michael.

MR. BODNER: I will not go into the courses that are not part of the Sephardic Studies Program, though they may be of interest to Sephardic students.

Q (By Mr. Bodner) I would ask you, Rabbi Dobrinsky, if there are Sephardic program study courses in any other schools, other than Erna Michael and Bernard Revel, the schools you previously described?

A There is a course, Jews Under Islam, offered in Eastern College.

Q This is referred to in Employer's Exhibit 133 for identification, on page 3 thereof?

[3232] A That's correct.

And there are other courses offered in Eastern College for women as well.

I do not know which courses are being offered this semester.

Q Okay.

A In Jewish College there is a course on Ladina, Judao-Spanish, which is to be offered this semester, depending upon the number of students that enroll.

Other courses are in the affiliate schools, such as RIETS, Cantorial Training Institute, which provides two different courses in Sephardic Liturgy or Hazzanut background, teaching both the Oriental, Eastern and the Oxidental, Western, Sephardic Nusach, N-u-s-a-c-h, (Cantillation of Liturgy).

MR. BODNER: I will just note for the record that I will not go into further detail as to Sephardic Studies Programs courses offered in any of the entities which were part of the stipulation of exclusion.

I would just also note that there is reference in Employer's 133 to courses in the Cantorial Training Institute, at page 2 and 3 thereof, and as to this, as well, since it was the subject of a stipulation of exclusion, we will not go into any further detail.

Q (By Mr. Bodner) Rabbi Dobrinsky, the courses to which [3233] you have referred that are presently taught in various schools of Yeshiva University, the faculty who teach these courses is the next subject of my inquiry.

Are any of these courses taught by an individual who holds a Chair in Sephardic Studies?

A Yes. Dr. Hayyim, H-a-y-y-i-m, J. Cohen, is the first professor to hold the Chair in Sephardic Studies at Yeshiva University, and he is teaching two courses in Erna Michael College for Hebraic Studies, and two courses in the Bernard Revel Graduate School.

Q So that his total combined course offering is four courses?

A Considered to be full time, in terms of the course load, because in addition he also has to handle dissertation work, in that he's a consultant for, and overseeing the dissertation, right now, of at least one student that I'm aware of.

Q And this is a student in which school?

A Bernard Revel Graduate School.

Q I see.

A And he's also available as a resource for research information to the University, so that he's teaching four courses and in addition, he is required to be available for additional time for consultation, and for research information.

* * * *

[3248] MR. KRAMER: I propose the following stipulation.

Page 3108, line 16, duties should read degrees.

Page 3109 Professor Behrings name is B-e-h-r-i-n-d-s.

HEARING OFFICER: How about the bottom of 3108, where we have theoresical physics?

MR. KRAMER: I'm not going to try to correct the typist. There are so many.

HEARING OFFICER: I see what you mean.

MR. KRAMER: Page 3116—

[3249] HEARING OFFICER: I don't have that page, I'm sorry.

MR. KRAMER: Line 23, should read math and science education department.

Page 3117, line 10, Belfer should read Ferkauf.

Line 16 of that same page, the words, "the depth, should be replaced with the words "a state".

On page 3119, line one, the line should read "now since much of this has just been promulgated within this, as opposed to what it reads now.

On page 3118, line 24, after word university, should be inserted, "except for the".

HEARING OFFICER: Except for what?

MR. KRAMER: The department of the, should be after "of College of Medicine".

That line should read, to correct it by stipulation, line 24 of page 3118, "department of the entire University, except for the department at the College."

Page 3128, line 16 and 17, should read as follows:

"If we had television for the reader of the record, if he saw the smiles in the room, he".

Page 3130, line 4, striard, should read striar, s-t-r-i-a-r.

The paragraph beginning at line 5 and ending at line 12 should read. However, as I recall the record, putting that aside, all witnesses have testified basically that the [3250] University load is 12 hours or four courses. As I recall Dr. Fishman saying, it is the requirement of 12 hours or the equivalent of that, I do not recall, putting aside those two witnesses which I cannot comment on, because I haven't read their testimony, that the record is not to that effect."

Page 3132 line 8, the word the should be replaced with the word each.

3135, line 18, the word governing should be replaced with the word governance.

3137 line 6, the word natural should be replaced by the word actual.

Page 3138 line 10 and thereafter, where ever this errow may appear, the words Dean Iomar, I-o-m-a-r, the I is incorrect, it should be Komar, K-o-m-a-r.

HEARING OFFICER: Excuse me, before you go on, Mr. Kramer.

3136, what line did you see natural on?

MR. KRAMER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

MR. KRAMER: 3140, line 6, the word the should be them.

3143, line 18 should read as they zoom in on one or two people, they.

[3251] And on line 20, "colloquy" should be colloquium.

3171, line 18, the word trainingship grounds, should changed to training grants.

I stand corrected.

Those words should be traineeship, t-r-a-i-n-e-e-s-h-i-p grants, instead of training grants.

HEARING OFFICER: Anything else, Mr. Kramer?

MR. KRAMER: No, sir.

That is my stipulation.

HEARING OFFICER: Mr. Shectman, do you agree to the stipulation?

MR. SHECTMAN: I'm in agreement with the stipulation.

* * * *

[3253] A The ranges of new employees, or in general?

Q In general?

A I think I testified to that last time.

Full professors run, well, it's changed since my last testimony, because there have been so promotions, I think.

Q Your testimony reflects a range of from 12 to 40 thousand. It makes no differentiations?

A That's right.

It's in that range, yes.

Q No, no. For each rank now, Dean Komar, approximately.

A Okay.

Approximately. Let's say full professors I'd say run from approximately 19,000 to somewhat under 40,000 on a nine month basis.

Q Yes.

A Academic salary. Associate professors run, I'm trying to think, I would say from 14 to about 23, and

assistants—Well, sought or—no, no assistants, I'm sorry, run from 13 to 23.

Associates—do we have any associates? Oh, somewhere an—say between 15 and 25 would be safe. Somewhere in that ball park. I don't know off hand.

[3254] Q You have told us that the salaries in the range you have just described apply to the academic year, or nine month year, is that correct?

A Yes.

Q Do your faculty members, however, work only a nine month year?

A No. Many of them work a 12 month year.

Q Where does the—correction, strike that.

What is the source of the additional three months employment, or the sources of the additional three months employment, as the case may be.

A Generally, their additional income is derived from research grants. They're permitted to earn a third more over the nine month salary, if they have grant support.

Q Grant support, however, Dean Komar, is not limited simply to the summer, is it?

A No.

* * * *

[DEAN ARTHUR KOMAR—
DIRECT EXAMINATION, RESUMED]

* * * *

Q (By Mr. Kramer) In preparation for your testimony today, Dr. Komar, at my request did I ask you to prepare an updated list of current grants and pending grants, and I'm referring to research grants, in your school?

[3255] A Yes.

Q Did you have such a list prepared by someone under your overall supervision and control?

A Yes.

Q Who was that, Dean Komar?

A My secretary.

Q Did you check the list that she prepared against your own recollection?

A Yes, I did.

Q To the best of your knowledge, is that list correct?

A Yes.

Q Now, in preparing this list, did I ask you to limit your self to faculty type personnel, as opposed to technicians, secretaries, and research assistants?

A That's correct.

Q I show you Employer's Exhibit 134 marked for identification, a document entitled Belfer Graduate School of Science, Yeshiva University, current grants, in the right hand corner, updated 1-17-75.

Is this the document I asked you to have prepared for us?

A Yes.

Q The document has certain names underlined in blue, and certain names underlined in red.

Would you tell us, Dean Komar, what the blue [3256] underlining stands for?

A The blue underlined name is the principal investigator.

Q And the red underlined names are other doctorial faculty members who are on the grants in varying capacities, depending upon the grant.

Q You have not included, have you, research assistants?

A No.

Q Those would be pre-doctoral people?

A Those would be pre-doctoral people.

Q Let's turn to the second page of this Exhibit.

To the first grant on that page. I'd like you to number the page at the bottom in pencil, please, if you would, as page 2.

Would you number each of the pages thereafter, too?

(Witnesse complies.)

Q Looking to the first grant on that page, to the name Dr. h. Choi, C-h-o-i—

A Right.

Q Is that the Dr. Choi that you referred to previously in your testimony?

A Yes.

Q Now, let's turn to the second grant on that page, to Donald Beck. Is that the Donald Beck to whom you referred previously?

[3257] A Yes.

Q Next to his name is Ian Cooper. Who is Ian Cooper?

A Well, I never met him personally. He was hired by Professor Musher. He is professor at another university, I don't recall which one. I don't recall which one. He was hired by Musher to work on his grant for some period of time.

Q Now, did he in fact work on that grant?

A Yes.

Q Was he paid by the University for that work?

A Yes.

Q Let's turn to the next name, Dita, Hellwinkel, H-e-l-l-w-i-n-k-e-l.

A Dita Hellwinkel. He was a professor from Germany. He is I—I think his regular post is at a German university if I remember correctly. He again was hired by Professor Musher to work on that particular grant. I have never met him.

Q Did he in fact work at Yeshiva University?

A Yes.

Q Was he an employee of the University, when he worked there?

A Yes.

Q Now, Jeremy Musher, you have told us, has passed away?

[3258] A Correct.

Q Has been replaced by Donald Beck, is that so?

A That's correct.

Q Let's turn to the fourth name on the second grant, page 2 of the Exhibit 134, and to the name Dr. V. B-o-n-a-c-i-c, K-o-u-t-e-c-k-y.

Would you tell us what his status is?

A It's a woman.

Q Her status is?

A She is a chemist, doctoral chemist, I believe from Romania, and she was employed at that time by Professor Musher, to work on that grant for him.

Q Does she have a full time appointment as a member of the faculty at Belfer School of Science?

A She did at that time. She did during some period during the lifetime of the grant which ran from 1971 to

1975. She's no longer employed. She left. She's now in Germany.

Q Who was she hired by?

A Professor Musher.

Q As a result of that hiring, she became a full time faculty member of the school?

A Yes.

Q She's now no longer with the school, I take it?

A Right.

Q Now let's turn to the third grand on page 2 of the [3259] Employer's Exhibit 134.

I see there the principal investigator is Jeremy Musher. He's passed away. Has a replacement been selected?

A I am not sure. If so, it would be probably Professor Beck, but the—that's not a government grant, that's a grant from the American Chemical Society, and it's a litle more freewheeling in discretion.

Q Donald Beck appears as a faculty associate on that grant?

A Correct.

Q You told us how Dr. Beck came to be employed in the University.

A He was hired by Professor Musher, initially.

Q That was last summer?

A Yes.

Q Let's turn to the second name on that third grant on page two, H. Nakatsuji. Would you tell us what Professor Nakatsuji's status is?

A He is—I really don't know him at all. I have never seen him. I never, in fact, was aware of the name until we were preparing this list.

However, he was hired by Professor Musher, he is a post-doctoral person, to work on his grant, to aid Musher in the research being performed on the grant.

[3260] Q While he worked on the research on the grant with his post doctoral degree, he was an employee of the University?

A Correct.

Q Doing scholarly work, Dr. Komar?

A That's correct.

Q Now, let's turn to page 3 of the Employer's Exhibit 134. The second grant on the page. That grant, principal investigator is Louis Coburn, is that correct?

A That's correct.

Q A full time faculty member of your school, is that right?

A That's right.

Q Under his name are two co-principal investigators, Charles Berger and Arnold Lebow. Are they both faculty members, holding full time appointments at your school?

A Yes.

Q Now, let's turn to a fourth name on—under the grant, also underlined in red, together with Berger and Lebow, an S. Anastasio, faculty associate.

What is his status or her status on that grant?

A He is a post-doctoral person who was hired by them to work on that grant. I don't know who he is.

There again, I was not familiar with that name until we went through the records to prepare this list.

[3261] Q That hiring was made by whom?

A By Professor Coburn.

Q Did Mr. Anastasio, or Ms. Anastasio, engage in scholarly work under that grant?

A I presume so. The grant is a research grant, and this is a post-doctoral person.

Q Let's turn to the third grant on page three of Employer's Exhibit 134, and I note there the name, underscored in red, next to the appellation visiting faculty associate, Paul Malliavin, M-a-l-l-i-a-v-i-n. Is that the same gentleman to whom you referred in your prior testimony?

A That's correct.

Q Now, let's turn to the fourth grant on page three, the principal investigator on that grant appears to be an Adam Koranyi, correct?

A Correct.

Q He is a full time faculty member at your school?

A Yes.

Q Holding a base appointment in your school?

A Yes.

Q On that same grant is the name Robert Putts next to the title faculty associate?
A That's right.
Q Do you know Robert Putts?
A Yes.
[3262] Q What is his status, Dean Komar?
A He is a post-doctoral, I think he's an assistant professor, if I remember—either an instructor or assistant professor in the mathematics department. A full time faculty member in the mathematics department.
Q Who hired him for that grant?
A Professor Koranyi, K-o-r-a-n-y-i.
Q Now let's turn to the fourth pafe of Employer's Exhibit 134, to the first grant thereon.
That grant shows a principal investigator a G. W. Cameron, is that correct?
A Correct.
Q Full time faculty member at your school?
A Yes.
Q By the way, all the principal investigators on this list are full time faculty members at your school, are they not?
A Yes.
Professor Cameron is on leave of absence without pay, for the past few years, but he still administers the grant in our school.
Q Does he draw salary from that grant?
A I don't—he did at one time. For the current year, I don't believe so, but I'm not sure.
Q He's on leave of absence, but still administers the [3263] grant?
A Correct.
Q He's still an employee, is he not, of Yeshiva University?
A Yes.
Q Though on leave of absence?
A Yes.
Q Now, who are the four—there are four—strike that.
There are four names underlined in red on that grant?
A Yes.

Q Let's take the first one, R. Buchler. Do you know who R. Buchler is, B-u-c-h-l-e-r?
A He was a, I think assistant professor was his range, in the physics department.
Q Full time?
A Full time.
Q Base appointment in your school?
A Yes.
Q Hired by whom, onto this grant?
A By Professor Cameron.
Q The next name is L. Landovitz, La-n-d-o-v-i-t-z. Do you know who L. Landovitz is?
A Yes. He's a full professor of physics in the physics department.
[3264] Q Who selected him to work on this grant?
A Professor Cameron.
Q Let's look at the next name, J. Littleton. Do you know who J. Littleton is?
A Not really. He was hired by Professor Cameron. I don't believe I have ever met him. But he's a post-doctoral person doing research with Professor Cameron.
Q Selected by Professor Cameron?
A Yes.
Q When he did hs research as the case of all post-doctoral fellows—
A Yes—
Q —he was an employee of Yeshiva University?
A Yes.
Q Engaged in scholarly work?
A Yes.
Q Turn to J. Truran.
A Yes.
Q Do you know J. Truran?
A Yes.
Q Would you tell us his status at Yeshiva University?
A Since he left us this passed year, or was it two years ago, but he was, I believe a full professor of physics in the physics department, regular appointment. And he has since resigned his appointment.
[3265] Q Who secured his assignment on that grant?
A Professor Cameron.

Q Let's turn to the third grant on page four of Employer's Exhibit 134.

A Right.

Q I see there the principal investigator is a Joel L. Lebowitz, is that correct?

A Correct.

Q What's Mr. or Professor Lebowitz' position?

A He's chairman of the physics department.

Q Now, underneath his name, next to the title visiting faculty associates, are three names.

The first is O. E. Lanford III. Are you aware of his status?

A He has visited Professor Lebowitz for an extended period of time, and was supported by Professor Lebowitz' grant. How long the period of time was, I don't recall, but it was in excess of a week, because the list for Professor Lebowitz was extremely long, and it would fill several pages, if we didn't have some cut off in who we were to include.

Q In other words, just so that we are clear on this, Professor Komar, you have not listed under Professor Lebowitz' grant, number AFOSR73-2430B, on page four of Employer's Exhibit 134, all of the visiting faculty associates, is that [3266] correct?

A No. No.

Q What was the cut off that you used?

A In excess of a week, during this present academic year.

Q I assume there were many shorter than a week?

A During this year, and many longer than a week during previous years.

Q Those longer than a week during previous years, are not listed at all, is that correct?

A Not on this list, no. Some of them may have appeared on the earlier list.

Q By that you mean Employer's Exhibit 62, appended to Board Exhibit 2, is that correct?

A That's right.

Q Now, let's turn to O. Penrose. That's the second name next to that third grant on page four.

Is that the name O. Penrose that you referred to in your previous testimony?

A That's right.

Q Finally, there's an L. K. Runnels, R-u-n-n-e-l-s. Underlined in red, next to that title, visiting faculty associate on that third grant on page four of Employer's Exhibit 134. Do you know his status?

A I don't know who he is. I just know from the records [3267] that he visited us during the present academic year, for a period in excess of a week. But I have no idea who he is. He's a post-doctoral person, from another university. But where, I don't know.

Q Is it a fact, Dean Komar, that Messrs. Lanford, Penrose and Runnels, were all employees of the University?

A Yes.

Q All paid by the University?

A Yes.

Q All did scholarly work at the University?

A Correct.

Q All on Professor Lebowitz' grant?

A Yes.

Q All hired by Professor Lebowitz?

A Right.

Q There are additional faculty members—correction. Additional visiting faculty members this year, who visited for less than a week?

A Yes.

Q Who were selected an hired by Professor Lebowitz?

A That's right.

Q Is it also a fact that there were faculty members during the 1973-1974 term, visiting faculty members, who were not—who were hired by Professor Lebowitz, who are not shown at all on this Exhibit?

[3268] A That's correct.

Q That's so whether they worked a week or more?

A Right.

Q Let's turn to the fourth grant on page four of Employer's Exhibit 134, a grant of Paul M. Raccah, R-a-c-c-a-h, listing two faculty associates, T. Halpern and F. Pollack.

Is the T. Halpern the gentleman about whom you testified last time?

A That's correct.

Q Let's turn to the name of F. Pollack. Will you tell us what Mr. Pollack's status is?

A Professor Pollack is a professor of physics in the physics department.

I'm just trying to recall now whether—I think he's a full professor.

Either associate or full, I just don't recall. But he's a regular faculty member.

[3269] Q Was Mr. Pollack hired for this grant, by Professor Raccah?

A Yes.

Q Let's turn to the next grant right under that, a grant of $148,840.00 to—through a principal investigator, Paul M. Raccah.

Is that the same Progessor Raccah?

A Yes.

Q This grant shows three faculty associates, an M. Bell, A. T. Halpern, and an F. Pollack.

Is that the same Halpern and Pollack you've referred to previously?

A Yes.

Q Would your answers with respect to Halpern and Pollack be the same for this grant, as they were for the previous grant that I questioned you about?

A Yes.

Q Let's turn to the name, M. Bell.

Would you tell us what the status of M. Bell is?

A M. Bell, Professor Bell is an assistant professor in the Physics Department.

Q Who hired him for that grant?

A Professor Raccah.

Q Okay.

A I should say, Professor Bell is on a status [3270] whereby he is supported entirely by grant funds, and whether he would be retained or not depends on Professor Raccah.

I mean, retained in the University.

Q In other words, if Professor Raccah didn't want him on that grant, and he couldn't secure employment through another principal investigator, he would have no job, is that what you're saying?

A That's exactly what I'm saying.

Q Let's turn to the next grant, also a grant to Paul M. Raccah, the next to last grant listed on Page 4 of Employer's Exhibit 134, the faculty associate on that $40,000.00 grant appears to be F. Pollack.

Is that the same F. Pollack referred to above?

A Yes.

Q Would your answers with respect to Mr. Pollack be the same as they were with respect to the other grants in which he's listed?

A Yes.

Q Would that be true with respect to the next grant, which also shows principal investigator, Paul M. Raccah, and a faculty associate, F. Pollack?

A Yes.

Q Let's turn, Dean Komar, to Page 5 of Employer's Exhibit 134, more particularly to the second grant [3271] listed there, the principal investigator on that grant is Jonathan Wachtel, is that correct?

A Yes.

Q Is Jonathan Wachtel a full time faculty member at your school?

A Yes.

He's—He's an associate professor in the Physics Department.

Q But he's a full time faculty member, is he not?

A Yes.

Q Holding a base appointment in your school?

A Yes.

Q That grant lists a faculty associate, H. Presby. Do you know H. Presby?

A Yes.

Q Would you tell us about his status, please?

A He was an assistant professor in the Physics Department.

He has since left the University.

Q Who hired him for the grant listed on Page 5?
A Professor Wachtel.
Q He was hired while he was an assistant professor, was he not?
A Yes.
Q And secured employment on that grant, and compensation [3272] as a result thereof, it that correct?
A That's right.
Q Now, I note that Pages 6, 7 and 8 start under the heading, Pending Proposals, is that correct?
A Yes.
Q How do those differ from Pages 1 to 5?
A One to five are proposals already granted by the granting agencies.
So, they are in force at the moment.
Q But Pages 6, 7 and 8 are not in force, are they?
A No.
Q All right.
Are all the persons underlined in blue, full time faculty members, holding base appointments in your school?
A Yes.
Q Now, let's turn to Page 7, and to the second grant sought in the amount of $215,695.00 by Lewis A. Coburn, and listing co-principal investigators, Charles Berger and Arnold Lebow.
Are Charles Berger and Arnold Lebow full time faculty members of your school?
A Yes.
Q Now, Dr. Komar, this grant being sought in the amount of $215,695.00, is for what period of time?
[3273] A From May 1st, 1975, to April 30th, 1978.
Q Now, given the amount of money being sought under that grant, and given the terms of that grant, to the extent that you may know them, will the faculty members who are either principal or investigator, or co-principal investigators, on that grant, have the authority, within the grant, to hire faculty associates, research associates, visiting faculty members, for that grant?
A They would have the authority, provided the funds are available—provided funds are available within the budget which is finally granted.

Q Assuming that number was $215,695.00, that authority would exist, would it not?
A Yes.
Q Now, I note that the third grant lists a Leon Erenprice as the principal investigator, and Paul Malevian as the investigating faculty associate.
Who chose Paul Malevian to be the visiting faculty associate on that grant?
A Professor Erenprice.
Q Did you have anything to do with that?
A Nothing at all.
Q That's the third grant on Page 7, is that correct?
A Yes.
[3274] Third grant proposal.
These are proposals.
Q Yes, sir.
Now, with respect to the fifth grant on that page, I note that it's under principal investigator, Adam Koranyi, and faculty associate, Robert Putts.
Are those the same gentlemen we talked about previously?
A Yes.
Q Who selected Robert Putts to be the faculty associate on that grant?
A Professor Koranyi.
Q Did you have anything to do with that?
A No.
Q If that grant is granted by the government, will Putts secure employment there?
A If Koranyi so chooses.
In fact, Professor Putts, I guess he's either Professor or Instructor, is planning to leave at the end of this academic year, in which case, it will be up to Professor Koranyi to decide what to do about the grant, whether to replace Putts by someone else, or to retain him.
Q He would have the authority to choose?
A Yes.
[3275] Q To make the hiring in this particular case?
A Yes.

Q Now, Dr. Komar, just so the record is clear, in addition to the faculty-type personnel we've just reviewed, are other personnel employed on grants of the type, either granted or being sought, which is described in Employer's Exhibit 134?

A Yes.

Q Would you tell us the type of non-faculty personnel that work on these grants?

Obviously, it differs from grant to grant, but give us an overview, if you would?

A Generally, there are research assistants, who are pre-doctoral students.

There are secretaries, there are, occasionally, technicians.

Lab assistants.

Q Now,—

A I guess that's about it.

Q Let's turn for a moment to the technicians you have just referred to.

How were they selected, Dr. Komar?

A I—

Q I'll rephrase that question.

How were they hired?

[3276] A When a principal investigator requires the services of a technician, he hired one.

Q From the outside?

A Providing the funds are available in the grant, yes.

Q From the outside market?

A Yes.

Q Do you hire him?

A No.

Q Does Dr. Sokol hire him?

A No.

He has to approve, I suppose, the payroll memo.

That's about it.

Q That would be a routine approval, would it not?

A Yes.

Q The hiring is done by the principal investigator?

A Yes.

Q If the principal investigator is dissatisfied with that laboratory assistant, he can have the authority to terminate him, I would assume?

A Yes, to the extent that they're not unionized.

I imagine that would present complications.

Q To the extent they're unionized, he would have the power effectively to recommend termination?

A Yes.

[3277] Q The same way that a foreman would in an auto factory, isn't that correct?

A Exactly.

Q Would you tell us how secretaries are selected for this grant, for these grants?

A Well, it varies.

Those grants which have enough money to support an entire secretary of their own, the principal investigator simply selects a secretary.

Q By select, you mean,—

A He interviews them and says, this is the one I want, or if he wants to terminate her because he doesn't like her work, he simply says, I want her terminated.

Many of the grants cannot support a full time secretary, and so we have a secretarial pool, and the principal investigators request secretarial service, and frequently are assigned a particular person in the pool, which is then charged to his grant.

If he is dissatisfied with the person assigned to him on his grant, he can ask that she be removed and someone else be assigned.

Q His request to that effect, about reassignment, is normally granted?

A Yes.

[3278] Q Do you have any idea, Dean Komar, what percentage of time, full time faculty in your school, who are principal investigators, spend in supervising, managing, directing, assigning, the non-faculty type employees, or non-professional employees, as we would call them, who work under these grants?

A It varies from person to person.

I imagine that, I mean, I don't know firsthand, I imagine that someone—

• • • •

[3285] Q You have told us previously that you have had research grants yourself, is that correct?

A Yes.

[3286] Q Have you had non-faculty personnel assigned to those grants?

A Secretaries and graduate students.

Q Could you tell us with any degree of accuracy, what percentage of your overall working time, during the particular academic year, when you had one of those grants, was spent in supervising, managing, director or controlling those non-faculty personnel?

A Not really.

It varied all over the place.

Some weeks I was completely tied up with the secretary or a graduate student.

Other weeks, I was not as much.

I mean, it would be very hard to estimate.

Q Are records kept on that basis, Dean Komar?

A No records were kept on that basis.

* * * *

[3289] Q (By Mr. Kramer) Dr. Komar, who is responsible for seeing to it that the faculty or professional type personnel employed on these grants, in fact, do their work?

A The principal investigator.

Q You don't go around seeing to it that they do it, do you?

A Not at all.

Q Who is responsible for seeing to the quality of that work?

A The principal investigator.

Q Who has the authority to transfer these professional personnel from one task or function or assignment, to another?

A The principal investigator.

Q You don't do it, do you?

A Not at all.

Q Assistant Dean Patt doesn't do it, does he?

A No.

Q Dr. Fishman doesn't do it?

A No.

Q Dr. Sokol doesn't do it?

A No.

[3290] Q It's not done in the grant accounting office of the main University, is it?

A No.

Q If, in fact, Dean Komar, the professional personnel working on the grants under the aegis of the principal investigator are not being supervised by the principal investigator, they are unsupervised, is that correct?

A I imagine so.

Q There isn't anybody else?

A There isn't anybody else.

* * * *

[3319] Whereupon,

ARTHUR G. KOMAR,

having been previously duly sworn, resumed and testified further as follows:

* * * *

MR. KRAMER: Yes, sir, I have two corrections for the record.

HEARING OFFICER: Okay.

Will you please read them into the record.

MR. KRAMER: In the hearing of January 15th, at page 3154, line 12, the third word from the end should read "tantrums."

HEARING OFFICER: And your second correction?

[3320] MR. KRAMER: And on page 3186 the word "measuring" which is found on line 6 should be "meshing."

HEARING OFFICER: Okay.

* * * *

CROSS EXAMINATION

* * * *

[3323] Q Pursuant to the faculty handbook did these members of your full-time faculty obtain your permission to teach outside of the university?

A Yes.

Q And do they—does—and does Professor Pomerantz [3324] have a full-time teaching load or its equivalent at the Belfer Graduate School?

A Yes.

* * * *

[3331] Q What percentage of your full time faculty is tenured?

A About 80 percent, maybe 90 percent. I don't really know.

I mean, I didn't do the exact estimate but it's a very high percentage.

Q Between 80 and 90 percent?

A I would guess offhand.

* * * *

[3336] Q The department chairmen at the Belfer School of [3337] Science are elected, are they not?

A Yes.

They are elected by their faculty members in similar discipline?

A In their department.

HEARING OFFICER: Are all the members of the department allowed to vote?

THE WITNESS: Yes.

HEARING OFFICER: On the election?

THE WITNESS: Yes.

HEARING OFFICER: That would be part-time and full-time?

THE WITNESS: It doesn't work that way.

It is done—there is not a vote of yes or no. It is generally a consensus and if there are—if part-time person is present at the meeting, his consensus is—he contributes to the consensus as well.

I mean, it is not secret ballot or votes really

I mean, I suppose if someone wanted to insist on a closed secret ballot, this has never—on a closed secret ballot I imagine—I mean the department would then have to decide whether to allow a part-time person who is present to vote or not and since this has never occurred, I don't know what would happen.

I can see it going one way one time and another [3338] way another time.

Q Are you then saying, Dean Komar, that the full-time faculty of the department might then elect at its option the participation or non-participation of part-time faculty time in this election?

A That's correct.

Q Do department chairman upon their election receive any increment in their salary or compensation for service in that regard?

A Formally, no.

Q Do they receive any equivalent time or reduction in their work load?

A If they choose to take it, they can have it, yes.

Q Are there any department chairmen who have chosen to take it?

A Yes.

Q Who is that?

A I believe Professor Pomerantz has chosen to take it.

I am not sure about Professor Lebowitz, sometimes he does, sometimes he doesn't.

Q Could you describe in more detail the situation with regard to Professor Pomerantz?

A It depends to a large extent on the demand for staffing courses.

[3339] If the demands on the—to staff courses cannot adequately be met by the faculty for a given semester, Professor Pomerantz who teaches normally two course load, however, if the demand in any one semester is a bit lighter he would have the option of taking a one course load but it's at his discretion.

Q Do department chairman have secretaries?

A Some do; some don't.

Q Do those secretaries—

A They all have secretarial service. I assume you mean do they have a private secretary exclusively for themselves.

Q Yes, do they?

A Some do; some don't.

Q Who does?

A Professor Pomerantz does.

For awhile Professor Grosof does not.

For awhile she shared one but until this year she had a private secretary.

Q Is that secretary provided solely in connection with any duties that they, that they have, such as department chairmen?

A Solely?

Q Yes.
A No.
[3340] The secretary helps them not only in their administrative work but also in their research, typing paper.
The secretaries just don't do one thing. It's a mixture.
Q So then other faculty members have secretaries as well?
A That's right.
Q So then, the status of department chairmen does not automatically or necessarily include provision of an assigned or designated secretary, does it?
A A department chairman has an assigned designated secretary, yes.
Q You testified previously that not all department chairmen do.
A They are assigned a specific secretary for departmental matters but she doesn't only do that. She does other things, as well.
Q And do other members of the department have access and the use of that secretary?
A Frequently.
Q You referred, did you not, to the process by which new faculty are hired at Belfer Graduate School.
A Yes.
Q And is that process in fact conducted pursuant to the procedures set forth in the Belfer Graduate School [3341] of Science by laws?
A Whatever that may be.
Could you read me what you are referring to?
Q I will show you Employer's Exhibit 131, Section 5, new faculty appointments (handing).
A Yes.
HEARING OFFICER: Paragraph 5, page 5 of the exhibit.
Q To the best of your knowledge, Dean Komar, is that process substantially complied with by the departments?
A In part, yes. In part, no.
Q Could you be more specific?
A Well, let's take it point by point.

New faculty appointments including visiting appointments are made by the president upon recommendation by the dean and the department.
That's in part true and in part false, because visiting appointments are frequently not made by the president but can be by the principal investor, or by the chairman of the department on some occasions.
So that's false—not quite true.
Q On what occasions would the chairman of the department do so?
A Well, in the case of the Physics department, the chairman of the physics department for a number of years, for five years until this past June was the principal [3342] investor on a departmental development grant from the National Science Foundation and in that capacity he made appointments.
Q So then he appointed someone to work with him in furtherance of that grant?
A Not to work with him and not in furtherance of the grant.
The grant was issued specifically for the benefit of the physics department, not for that—for the benefit of the research of the chairman and the appointments were made to the physics department.
They were discussed in the physics department and they were voted by the physics department but the appointment letter was sent by the chairman of the department.
Q And that was pursuant to the election of the other —of the department members, correct?
A Yes, it was on a recommendation of the department members.
But it was not—I don't recall whether—some of the appointments may have received letters from the president but I don't really recall.
I know a letter of invitation for many of them came directly from the department chairman so that part is not correct.
In addition the faculty committee shall each year [3343] consider the number of new faculty departments desired by the department at that time and make its recommendations.

I don't recall that ever happening.

Any situation that causes departures from these recommendations by the faculty committee shall require reconsideration and new recommendations by the faculty committee.

I don't recall that ever happening.

I mean, it may have happened once but I don't recall really.

To go on, each department may establish its own procedures for the investigation and recommendation of new faculty members.

That certainly is true, except that recommendations by the department shall require a two-thirds vote of the department for the proposed appointment and rank.

Well, as I testified earlier, one generally doesn't vote so it is done by consensus so one never worries about the two-thirds requirement.

Q You are saying when the issue is raised before the members of the department there is generally a conference rather than any specific council?

A That's correct.

[3344] Department recommendation for appointment presented to the dean for approval, that's correct.

Consultation with department chairmen regarding proposal for the appointment, that's correct.

And transmittal to the present, well, as I indicated those which appointments which are transmitted to the president are transmitted, but there have been those which have not been.

Shall I go on?

In the absence of approval by the dean the department originating the recommendation may upon due reconsideration and by a two-thirds vote submit the matter to the faculty committee for review, but that has never happened.

On the basis of this review, et cetera, it goes on the basis of the review, well, this is talking about the situation that has never occurred.

That is the end of that section.

Q Do you have any knowledge of any departments where in fact the proposed starting salary of a new faculty member may be discussed by the department?

A Not offhand.

It may well have happened in some departments.

I don't attend departmental meetings except in the physics department.

[3345] Q You indicated that these department chairmen were elected by the members of their department.

Do you have any knowledge of the members of any particular department ever voting out of office or out of position a department chairman?

A Oh, yes.

Q And when was that?

A It happened several times.

It happened in the mathematics department, when Professor Schecter was chairman.

It happened in chemistry when Spindel was chairman.

Yes, it happens now and then.

HEARING OFFICER: Excuse me.

When a department chairman is removed from office, is that done by consensus or by vote?

THE WITNESS: Since I was not present at any of those meetings, because it never happened in the physics department, I can't give any first-hand testimony on that.

The minutes—I am trying to recall if they said in the minutes whether a vote was taken.

Generally a department chairman is elected for a three-year term, so there is no need to remove him—I mean, unless you want to earlier. I don't know the provisions on that, but usually when his term expires [3346] you have to either reappoint him or elect a new chairman and my impression is that the consensus generally is that they want a new chairman and so I don't recall whether a vote is taken.

HEARING OFFICER: Okay.

Getting back to that point has a chairman ever been removed prior to the end of his term?

THE WITNESS: Well, prior to the end—the establishment of this document, the situation as to the status of chairman was ambiguous in the school.

As such there was one chairman, Professor Schecter, who was appointed by the dean, I believe.

There is some ambiguity or confusion as to how he was appointed, whether by the dean with the approval of the mathematics department or without.

Also there was some ambiguity as to whether he was appointed for life or for a limited term.

These formal structures did not exist at that time.

HEARING OFFICER: This is before you became dean?

A This is before I became dean—however, after I became dean and this formal structure was set up, there was an implied grandfather clause that this particular chairman is chairman for life or whether he's now subject to this three-year reelection provision and there was a big argument over that and finally—I don't—[3347] he—I don't recall the precise legal procedures by which it was resolved but in effect he was no longer chairman.

He was either removed, I don't know whether by faculty vote or what, but—or whether he ultimately resigned because of a lot of hostility about his claiming the existence of a grandfather clause.

In any event, there may have been a vote at that time to remove him but I don't know for a fact.

Since then that kind of problem has never arisen.

Q Was Professor Gelbart another department chairman who was voted out of that position?

A Professor Gelbart was the dean of the school.

He also claimed to be the chairman of—he claimed to be a member of the mathematics department but the chairman of the mathematics and science education department, he claimed however, not to be a member of the mathematics and science education department, so the situation was totally confused.

Whether he could be the chairman of a department of which he was not a member and be the dean of the school and this again all had to do with a situation prior to the formalization of all this.

Q But subsequent to his leaving the position as the dean of the Belfer School, do you recall whether [3348] in fact he was voted out of that chairmanship you referred to?

A No.

I believe—I certainly—by the members of the department, by his own claim did not include him, did not want him to be chairman.

Whether they had the authority to remove him or not was subject to dispute because he claimed that—he had his claim on the chairmanship as directly from the president of the university and therefore was not subject to any of these rules.

He was—I don't know whether he was voted out or not, but he was certainly removed essentially by the president of the university.

* * * *

Q Does there exist a promotions committee at the Belfer Graduate School?

A No, not to my knowledge.

Q And have you considered or recently undertaken any efforts to procure promotions for any members of your faculty?

A Yes.

[3349] Q Could you tell us what steps you took to obtain the authority to make such promotions?

A I don't have the authority to make promotions.

Q Could you tell us how you then obtained the authority or permission to make such promotions?

A No, I don't have it.

The promotions are made by the president of the university, in a letter.

I assume your question means how do I persuade the president to issue such a letter.

Q That's correct.

A Okay.

The department recommends—there is a formal set of rules—which I believe I testified to earlier—okay, I can repeat it.

The members of—the members of the department senior to the person being considered assemble at a meeting and discuss the credentials of the person being considered for promotion.

After this discussion they then decide whether they choose to recommend him or not.

There again it's never been an issue of whether they choose by a majority vote or two-thirds vote, it is general consensus agreement.

If they so recommend they—they send this [3350] recommendation to me.

Q Are you then charged to—to undertake certain efforts to obtain the authorization or permission from the president of the university?

A I transmit this recommendation to the vice president for academic affairs with my comments and he transmits then his recommendation with his comments to the president of the university.

Q So then before it gets to the president and between you and the president there is yet another person involved in that process?

A Vice president for academic affairs.

Q Has he ever modified any of your requests?

A Oh, yes.

Q And the promotion you indicated was finalized by notice from the president of the university?

A Right.

* * * *

[3351] Q Is there a library at the Belfer Graduate School?

A Yes.

Q And have there been any plans to move that library?

A Plans? On whose part?

Q On the part of the university admission, Dean Komar.

A It's been discussed occasionally up and back.

Q By whom?

A By various gossip things.

I never got a straight answer as to who—I mean, members of the library committee came to me with rumors that it was discussed with occasionally the vice president of business affairs, with the vice president for academic affairs, with myself, but—I gather it was—this is all second-hand, I gather it may have been discussed with the

director of the libraries, but from my first-hand information it seemed to be various rumors and gossip and I never got a clear answer as to what was really the contents.

Q Do you know in fact whether there was any consideration of moving that library by—

A No, I don't know in fact anything.

Q Did you ever set up a meeting to find out what the status of this matter was?

A Not that I recall.

Meetings may have been held but I don't recall setting up one.

* * * *

[3368] A In other words, how are the raises determined?

Q Yes.

A I think I testified how raises are determined already.

Q And you testified that the process first involved some discussions with department chairmen, did you not?

A That's right.

Q And how long has that been the practice?

A Ever since I've been dean.

Q With the exception of the last academic year?

A Yes, with the exception of this past academic year.

MR. KRAMER: By that you mean 1974-75?

THE WITNESS: Right.

Q And you testified did you not that those increases were subject to the approval of the vice president for academic affairs?

A That's right.

Q All right.

MR. KRAMER: Can I have that last question and answer read back, please?

(Record read.)

[3369] Q Has the vice president for academic affairs or any other administration official modified any determinations you made for faculty salary increases?

A They have influence on the modification, there's negotiations.

They also have the last word, but by modified I assumed you mean I say this and they say that and that's the end of the story.

I don't recall that quite happening.

Q Is it then the process that you undertake certain discussions or informal negotiations with members of the administration as to the salaries of your faculty?

A I think I testified earlier that I submit my recommendations to them and either they approve it or they say trim everything by a certain amount and then it comes back to me or trim it to get it under a certain sum or something like that.

And then it comes back to me and then I have to trim it.

I don't recall actually discussing any individual persons—it may happen on salary if an individual is particularly conspicuous, his salary is particularly out of line or the raise being proposed is conspicuously out of line.

But in general that is not the case.

[3370] In general I submit a list of salaries and in the end it is approved after this up and back negotiations as to the total sum.

Q And how long has the department of mathematics and science education been in existence?

A As long as I can remember.

Q For the academic year 1973-1974 were the salary increases for members of that department fixed pursuant to or determined, pardon me, pursuant to discussions between you and the department chairman?

A For that department I don't recall, because it is only three members to the department.

The department chairman generally tells me what she thinks of the individual members of the department.

Q Did you have any discussions as to actual dollar amount increases for members of the department of mathematics and science education with the department chairman?

A Actual dollar amount?

Q Yes.

A Rarely.

Perhaps just the dollar amount of Professor Walker was discussed but the others, no dollar amounts that I can recall.

* * * *

[3373] Q And in 1973, 1974 do you recall what role, if any, Professor Pomerantz played in these discussions relative to salary increases for that academic year?

A '73-'74?

Q Yes.

A There was one period, it may have been in 1973-74 [3374] when he was away in Wisconsin and Spindel then took over administering the department.

I don't recall if it was in that period.

If he were there he would have played his usual role. If he were not there, then Spindel took over that role.

Q Describe his usual role.

A It is as I described it earlier, namely to make recommendations as to the relative merits of the various faculty members and his recommendation as to what the various orders of priority should be for his raises.

Q When department chairmen then come to you to discuss such matters, do you on occasion have proposed salary increases already listed and set forth before you?

A No.

I don't have any lists set forth before me in any event. I never do.

Q Have you ever made some tentative determinations prior to talking with department chairmen?

A Not that I know of.

* * * *

[3376] Q In the last academic year, Dean Komar, were there promotional increments granted to certain faculty members who have been promoted in the last two or three academic years?

A You mean in the present academic year?

Q Yes.

A Yes.

Q And could you tell us whether—how those were fixed?

A The university decided to have a uniform salary agreement—salary arrangement, rather, for its faculty

at least so I was informed, and so as I think was in earlier testimony as was made clear I had no say in the increments, in the ordinary increments.

It went purely by what the rank of the faculty member was.

A few faculty members were promoted and in previous years, at least in the Belfer School, there was no correlation between rank and salary and there was [3377] no such thing as a promotional increment.

I gather that's not true in some of the other schools of the university.

Some of the other schools have a salary scale which we don't have in Belfer School.

As a result the question arose whether the people this year should also get promotional increments if they are promoted, something that has never happened in the past in our school.

We had no policy on this and we had no practice on this matter.

So it was decided that whatever agreement was reached concerning the promotional increments at the other school would be applied to the Belfer School.

The faculty welfare council of Yeshiva University negotiated with vice president Sokal concerning what the level of promotional increment was.

When those negotiations were completed and applied to the Yeshiva College, they were extended to the Belfer School.

Q Were they extended to the Belfer School to cover department chairmen as well as members of the departments?

A That would be impossible.

Department chairmen aren't promoted. They are full [3378] professors.

Q I'm sorry.

What I am referring to—I will come back to that subject.

Let me in fact correct myself and possibly can—you can correct your recollection.

Wasn't Professor Pomerantz promoted?

A Oh, I take it back.

Professor Pomerantz, I forgot was not a full professor. Yes, he was promoted and he received the same promotional increment as he would have normally gotten.

Q In fact, Miriam Grosof is not a full professor either, is she?

A Nor was she promoted.

Q All right.

And she is the department chairman of which department?

A She was the department chairman of the math and science education department.

However, as we have shown in previous testimony that department is being dissolved and becoming a program within the department of curriculum and instruction in the Ferkauf school.

Q You indicated, did you not, that the salary increments, putting aside the promotional increments now, given [3379] this year were uniform and a—on a university-wide basis.

A They were uniform in my school and I was informed by Sokal that they were determined on—by university-wide criteria.

Q Did you have any discussions with vice president Sokal to increase the salary increments given to your full professors from $1400 to $1500?

A It wasn't a discussion.

I simply asked him to.

Q And did he go along with that?

A Yes.

Q So in your school a $1500 increment was given to those faculty members in the rank of full professor, is that correct?

A That's correct.

Q Was that increment given to department chairmen in that rank?

A Yes.

Q And was that same increment given to members—

A To those that were full professors, right.

Q Right.

To members of departments who were not department chairmen were they given the same increment?

A Yes.

[3380] Q Do you know the last time your part-time faculty got a salary increase?

A No.

Q Are—

A They are paid by the—they are not paid—well, there's all sorts of varying arrangements, I believe. It's not—one cannot speak in terms of getting an increase or getting a decrease.

It is a negotiated thing each time.

[3381] Q Who negotiates that?

A The department chairman.

Q With the part-time faculty?

A Of course.

Q Subject to your approval?

A Yes.

Q And subject to the approval of vice president of academic affairs?

A In principal, not in practice.

* * * *

[3384] Q Now, I will ask you the question yet one more time.

How was the welfare committee created at the Belfer School?

I am not now referring under what authorization was it created, but how, by what process, when?

Could you describe it?

A I don't really recall the details.

I imagine it was created at a meeting of the faculty council where they decided that certain members of the—[3385] what is called the faculty committee shall comprise the faculty welfare committee, and—

Q When was that?

A Several years ago.

Q And you are saying at its inception the faculty committee assumed the responsibility of a welfare committee?

A No. I said the faculty council said—if I remember correctly that it was contained—those members of the faculty committee who were elected by their respective departments or something of the sort.

I mean, it was a—some resolution in the faculty council.

I don't remember the precise wording of it.

Q Do you recall what responsibilities that committee was charged with?

A I don't recall the details of it.

Q Do you recall, not in detail but in general?

A In general it had to do with welfare matters as its name implies.

Q Could you tell us what welfare implies?

A It is a very poor view.

It implies anything that faculty members deem is relevant for thier welfare and well being there at the school [3386] Q Would that include their salaries?

A It could.

Q In fact, couldn't it include virtually all the items which might categorize as terms and conditions of their employment?

A That would normally be provided as welfare, I suppose.

* * * *

[3389] Q Dean Komar, did the faculty welfare committee ever prepare specific demands with regard to certain terms and conditions of the employment of the faculty school?

A Not to my knowledge.

Q Did it ever submit any proposals for improvement in faculty salary?

A They have expressed the desire to improve salaries on occasion.

* * * *

[3407] But the government is more complicated.

Q If a principal investor terminates service at Yeshiva University is it not incumbent on the university [3408] and/or the principal investor to notify the granting agency?

A Yes.

Q Are there grants continually upon the participation of a particular principal investor?

A Virtually all.

Q And you indicated that it is the principal investor who hires persons under the grant?

A Yes.

Q And from what source is the total compensation of those persons derived?

A From funds available from the grant.

Q And to the extent that a person is compensated from those funds available under the grant, is it required that his services be solely directed to the furtherance of that grant?

A Yes.

Q So it is true, is it not, that if a person is fully compensated for his services under grant funds, that the university cannot utilize that person for activities unrelated to the grant?

A No, it is not true.

In fact, it is done quite frequently.

Q And that is permissible under the grant?

A Yes.

[3409] Q In what regard?

A He has duties under the grant.

If he offers his services in other ways as a member of the department, as they frequently do, such as to teach a course or to supervise students or to present seminars, the granting agency has no objections, nor does the University.

Q But that would then be volunteered, is that correct?

A Volunteered is not—I don't know how to answer that question, whether it is volunteered or not.

You mean what would happen if he refused?

Q Yes.

A It's never occurred so I wouldn't know what would happen if he refused.

If their services—you see, the cost scheduling in a department is done generally by consensus as we have indicated, therefore, is one—if one is competent in a certain area and he's asked to teach a such and such course, he says of course I will.

I don't recall a case of saying no I don't have to. I am not obliged to.

It never occurred so I wouldn't know what would happen if it did occur.

Q The authorization for his compensation under the grant pertains, does it not, only to activities that would be deducted towards the furtherance of the [3410] grant?

A Doing research and supervising students is within the purview of the research under most grants.

So there is no conflict there.

Q And some students then do take part in the administration or furtherance of some grants?

A Not in the administration of the grant.

They are supported by grant and they perform research under a grant but under the supervision of a grant—is that it?

Q Yes.

A Yes.

Q Now, in your direct testimony—excuse me, just a moment.

While we are in this particular area, a person who is working under a principal investor is being paid out of the funding in the grant?

A Right.

HEARING OFFICER: Who teaches a course or conducts a seminar?

THE WITNESS: Yes.

HEARING OFFICER: Of students at the school, is he compensated in addition to what he received under the grant?

THE WITNESS: Generally no.

MR. KRAMER: May I see here I had a little trouble

* * * *

[3411] MR. KRAMER: The question is clear, I think.

HEARING OFFICER: Yes.

MR. KRAMER: I am unclear about one part of the question.

The assumption is that you have a person in your question, was he working under a grant and teaching a course as part of that work under a grant, is that the—

THE WITNESS: Let me be—can I be helpful?

MR. KRAMER: Yes.

THE WITNESS: I think the best thing is an example.

Professor Bell is supported entirely by a grant for which Professor Rocca is the principal investor.

Professor Bell teaches a course for the physics department.

He does not receive extra compensation for that course.

MR. KRAMER: What about Professor Rocca, he is working under that grant, is he also teaching courses?

[3412] THE WITNESS: He also teaches courses.

MR. KRAMER: And is he paid from other than grant funds for the courses he teaches?

THE WITNESS: Professor Rocca's payment schedule is more complicated.

He gets some university money—some of his money comes directly from the university, some comes from the grant.

But he is not given additional compensation because he teaches.

I mean, it is part of a—teaching is expected on the part of faculty members generally at a university.

Q With regard to a faculty member who teaches two courses and also has a grant, can it generally be said that half of his compensation would be derived from grants and half from the university?

A No.

Q Is there any other kind of formula or rule or provisions that would apply?

A The formula is that research faculty is generally half-time on research and half-time on teaching duties.

That does not mean that the funds come half from research funds and half from university funds.

[3413] Frequently they come a hundred percent from the university and it is the university's subsidation of scientific research.

Occasionally when grant funds are available some small fraction can come from the grant or some large fraction can come from the grant.

It depends on the funds available, the provisions of the grant and what-have-you but for uniform policy in the

school, whether one has a grant or not, the university contributes to the support of research.

* * * *

REDIRECT EXAMINATION

* * * *

[3459] Q Dean Komar, the three faculty members who worked on your grant, did they report their progress to you from time to time?

A Yes.

Q Were you responsible for seeing to it that they actually did the work?

A Yes.

Q Did you have the authority to terminate them from the grant if they didn't do the work?

A I am not sure, because in the grant proposal in this particular case, their names were explicitly included in the budget of the grant proposal when the proposal was made.

The custom varies. Frequently the budget is written requesting a slot but not a name.

Then I would have the authority.

If the explicit name is placed in the budget I [3460] imagine I would have to go back to the government agency.

Q But you don't know that of a fact, do you?

A No.

I have never had the occasion to really inquire.

Q Now, do tenured faculty members work under grants?

A Yes.

Q Do tenured faculty members work as principal investors under grants?

A Yes.

Q And do they also work as faculty associates under grants?

A Yes.

Q Now, dealing with the regular school year which is September to June or thereabouts, that nine-month regular school year—

A Right.

Q —do tenured faculty members work under grants during that period?

A Not generally.

Q We have some tenured faculty members, do we not, who are currently working under grants during that period?

A I believe so. I would have to look it up.

[3461] Q Would you look, please?

A Let me say that generally a tenured faculty member would not—would rarely work one hundred percent on a grant during the school year.

He may work—partially charged to grants during the school year.

Q I didn't mean to imply fully.

A Yes, then it occurs.

Q Do you have tenured faculty members who work partially under a grant during the school year acting as principal investors?

A Yes.

Q And also as faculty associates?

A Yes.

Q Now, you've told us in your direct examination and also on cross that the principal investors have the authority, except in the circumstances that you just recently referred to, to terminate or law off as you said, a faculty member working under him as a faculty associate on a grant, is that right?

A Right.

Q —Assuming that happens during the school year, and the faculty associate who is terminated his tenured—terminating from serving under the grant that is—

A Right.

[3462] Q —what is the effect of that on the faculty members?

A On the faculty member or university?

Q On the faculty associate who is involved.

A The practical effect is that during the school year certain facilities that are available to him such as supplies, secretarial service, Xerox service, computer service would normally be charged to the grant are no longer available to him.

The financial effect is borne by the university but not by him.

Q That's assuming that he is a tenured faculty member?

A Right.

Q Working under a grant?

A Right.

Q Now, what is the effect on the university of the termination we have just referred to?

A The university is obliged to pick up his salary on hard money.

Q So that there would be adverse effect on the university?

A Very definitely.

Q There would also be an adverse effect on the faculty member but it wouldn't be financial?

[3463] A It would be financial during the school years.

Q You told us in your direct examination that grants funds are used to supply summer employment to principal investors and for faculty associates, is that correct?

A Yes.

Q Now, if a faculty associate be tenured or untenured for that matter, is terminated from a grant by the principal investors, does that have an impact on summer employment?

A Yes.

A faculty member can increase his salary by one-third —up to one-third by working in the summer time on grants.

Should he not have a grant or should he be terminated from a grant by the principal investors, he will lose that money.

Q Now—

A That is three months' salary, in other words.

Q You have told us that you have tenured faculty associates working under grants during the regular school year, that nine-month period.

A Right.

Q From time to time have you had non-tenured faculty members working under grants during the school year?

A Yes.

[3464] Q What is the effect on a non-tenured faculty member of the termination of his services on a grant during the course of the regular school year?

A If he has a letter of appointment stating when his appointment will terminate, he will—he can stay on until that letter expires.

If he does not have such a letter of appointment, then he immediately loses his job.

The custom varies.

Q With respect to the summer period, assuming you had a non-tenured faculty member working as a faculty associate on grants during the summer and he was terminated, what is the effect then?

A He immediately goes off the payroll.

Q And this is all under the control, I take it, these termination decisions, of the principal investors?

A Yes.

Q By the way, if a non-tenured faculty member working is a faculty associate during the school year under a grant and is terminated, and assuming that he has a contract for the remainder of the school year, is there any adverse effect upon him, financial or otherwise?

A No.

Upon the university there is.

[3465] Q Would there be the same adverse effect on the non-tenured faculty associate terminated during the school year as there would have been subscribed for the tenured faculty member?

A The same.

Q There is no effect, it would be the same effect but wouldn't be financial?

A It would be the same effect as far as the ansillary benefits is concerned.

Q If he had a contract that did not have a terminal date in it, it would be an immediate financial effect?

A Right.

Q All this would be up to the PI?

A Right.

* * * *

[3466] Q Broadly viewed would the loss of significant grand funds have a financial effect on tenured faculty during the nine-month school year?

A Substantial loss of grant funds would imperil the financial viability of the school.

Q I see.

A As such, even tenured faculty members could be laid off due to financial exergency.

Q And that is provided for, is it not, in the faculty handbook?

A Yes.

Q And more particularly under the section—statement of tenure appointment policy, V, termination of tenured faculty for financial exergency or departmental reorganization?

A That's right.

* * * *

[3469] Q I show you Petitioner's Exhibit 106, a memo under the heading Yeshiva University, to the faculty committee from the department of mathematics and science education, and signed by three faculty members whose names appear thereon.

Is this memorandum accurate?

A No.

Q If it is not accurate, will you tell the hearing officer what the true facts are?

A The memorandum complains about the disapproval —complains and disapproves of the failure on the part of the deans to consult with the department of mathematics and science education or through its chairman in arriving at certain decisions concerning the future of its department.

The department chairman in fact was consulted, discussions were in progress, in fact the department chairman was in the process of having discussions with the department of curriculum and instructions at Ferkauf all during this period, even without my knowledge.

Also, the memo implies that a decision had been made at the time the memo was issued.

No decision had been made and in fact even the—even at the present time one can best view the decision [3470]

made as tentative since it is in a state of flux which has not even been fully determined.

I scheduled just the other day a meeting of the faculty committee to discuss the present status to see if some progress can be made in clarifying the relationship that exists now with this department and the Ferkauf School and the Belfer School.

I can only view the situation still in a state of transition.

Q You told us on cross, my notes show, that the department chairman negotiated the salary for the part-time faculty members and then you said that you approved it.

To the best of your recollection have you—do you generally approve the salaries as negotiated by the department chairman or do you make changes?

A For part-time faculty, I have never made changes.

Q Has the vice president of academic affairs ever made a change?

A No, the approval there is pro forma.

Q And that would go or any department chairman that has negotiated a salary with part-time faculty members during your tenure as dean?

A Yes.

I can't recall ever changing that.

* * * *

RECROSS EXAMINATION

[3477] BY MR. SCHECTMAN:

Q In the last three academic years, have any grants been terminated prematurely?

A You mean by someone leaving or something of that sort?

Q Yes.

A Yes, it could have happened. I don't really recall.

Q And any time ever to the tenured faculty member ever being terminated from the university by reason of financial exergencies?

A Definitely not.

* * * *

[3481] THE WITNESS: Solomon Green, acting dean, Wurzweiler School of Social Work.

HEARING OFFICER: Dean Green, do you swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you?

THE WITNESS: I do.

Whereupon,

SOLOMON H. GREEN,

having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KRAMER:

Q By whom are you employed?

A By Yeshiva University.

[3482] Q And how long have you worked for Yeshiva University?

A Since 1958.

Q And what is your present position with the university?

A I am acting dean.

Q And how long have you held that position, Dean Green?

A Officially from July of the previous year.

Q Now, you said July of the previous.

By that do you mean July what?

A '73—I'm sorry, '74.

Q You say officially since July of '74.

Did you hold that position on an unofficial basis prior to that?

A Well, as an assistant dean I covered the position of dean while Dr. Rosenthal was ill in the hospital from December 1973 until he died in July 1974.

Q Would it be correct that you acted de facto as dean during the period prior to the time the dean was in the hospital and then de jura, as acting dean from the time of his death?

A Yes.

* * * *

[3483] Q Prior to becoming acting dean, what was your title at the school?

A I was the assistant dean for about a year and a half before Dr. Rosenthal became ill.

Q In addition to being an assistant dean, what other title did you hold at the school?

A I carried the rank of full professor.

Q How long were you a full professor?

A I am not sure. Three or four years.

Q Prior to that?

A Associate dean from about—about '65.

[3484] Q Were you associate dean or associate professor?

A I'm sorry, associate professor.

Q And prior to that?

A Prior to that I was an assistant professor from '58 to about '66.

Q Now, are you a member of the faculty, Dean Green?

A Yes.

Q And what area or areas do you teach?

A At the present time I teach a course for field instructor and a doctoral course called Jewish Identity.

Q Have you taught other courses at the school?

A Yes.

* * * *

[3486] A A full-time load at our school is generally two or three courses a semester, ten to twelve students as advisers, five or six or seven agencies to which the faculty members liaison and then a variety of committee responsibilities.

Q Would it be fair to state this is comparable to in its own way to full-time load in other institutions of the university?

A It has been I think designated that way in the previous conversations that the old deans and the academic deans decided on that kind of a point by point system, so that this is recognized as that.

* * * *

[3499] Q Now, Dean Green, looking at the exhibits we have just offered in evidence, particularly Exhibits 135 and 137, I see that there is no divisions on those exhibits of your school into departments, divisions, [3500] sequences or any other administrative or subject area—subdivision.

Do you in fact have such breakdowns within your school and if you do, using the catalog would you explain how those breakdowns function, what they are?

A We don't have any divisions that you might call departments.

What we have is a kind of functional division called sequence, but that is for the purpose of bringing together faculty who teach common courses for a mutual exchange of the process of teaching, the content and to see if there is any kind of commonality between them in educating the same students in the same school.

Q Are these sequences anywhere referred to in the catalog?

A No.

Q Now—

A It's a—it's a coming together of these faculty who are interested in talking together about the courses they teach in common.

Q I want to deal further with this, but turning to the catalog which is Exhibit 136 in evidence and more particularly to the material on pages 29 through 33—no, 34.

I note there are several headings within that [3501] description of courses.

On what bases are those headings chosen?

A They really come out of what I call the council on social work education as to embrace certain content areas.

Q And the basic organization of the school, however, is into sequences, is that correct?

A No.

It—

Q Well, then what is correct?

A All right.

The sequence idea is merely to help facilitate communications between people who teach common courses.

But it has been the practice at our school, except for one set of courses, for any teacher to teach any other course, nobody is locked into any special sequence, but there has been a concentration of some faculty members

who teach what we call practice courses, group work, case work, community organization.

Other than that everybody is up for grabs for any of the other courses.

Q Now, —

A And can be so assigned by discussion or even by their request.

Q Now, do faculty who specialize in the concentrations [3502] you have just noted hold regular meetings?

A We have structured it that way this year.

Q How do those meetings come about?

How are they convened, at least initially?

A One of the—one of the people in this group of courses was designated as a convener who called the first meeting and after that they had their own arrangements as to how and when they might be called together.

* * * *

Q Would you tell us what the contrations are and what the sequences are and how they differ?

A Well, I may have confused you.

[3503] Q Well, that's all right.

A I am using the word sequence to indicate that group of people who teach courses in common, all the teachers who teach group work. I have been calling them as—organized into a sequence for discussion and self-education.

Q All right.

Are they also a concentration?

A When I used the word concentration, I may have intended to say that there are some faculty members with whom the school has in a sense arrived at an agreement that they will concentrate as teachers in a particular sequence, I think that I indicated was a practice sequence.

All right?

Q Yes.

A Are you still confused?

Q Yes.

A Leaving the words out, I would say that—one has to use a word, under—on page 29 you have a thing called practice which goes to the bottom of page 30 for

me, those practice courses are taught by people at the school that are valued highly by the teachers as courses and they concentrate so to speak in teaching these courses and are more generally appointed to teach them [3504] than any other faculty.

Q Now, does that concentration of social work practice broken down into three elements, group work, case work and community organization?

A Yes.

Q All right.

Q Now, you have told us that there is a convener. . .

Is there a convener for group work and a convener for case work and one for community organization?

A Yes.

Q Now, let's put—

A And in this manual or catalog it is called community social work, not community organization. That's the old term.

We don't use that any more, just so that there is no confusion.

Q And these areas of concentration are referred to on the catalog which is employer's Exhibit 136 on page 12, is that correct?

A Yes.

Q Now, putting aside those three areas of concentration which you have told us have a convener, let us turn now to the concept of sequence.

All right.

Would you tell us what sequence is and how that is [3505] organized, if at all, in your school?

A I've used the term sequence to indicate something like this:

All the teachers who teach Jewish Communal Organization will come together and discuss the content, the method of teaching, the way students are learning and any other issues that they want to discuss.

Q Give us some more examples, if you would.

A The teachers who teach growth and behavior on page 32, social work 270, 721, get together because they teach those two couress, discuss the methods of teaching and the contents of teaching, et cetera, as teachers in growth and behavior.

Q Give us another example.

A The social research people, the four or five of them will gather together and talk about what research means in this school, how it is to be organized, how the teachers can in a sense come together so that all the students are exposed to an idea called research through practice.

Q Do these sequences as opposed to the concentrations that we just previously dealt with—I don't want to get mixed up again—

A All right.

Q —do they have conveners?

[3506] A Yes.

Q Now, who decides initially who the convener is to be?

A I did.

Q You appointed them?

A I appoint conveners.

Q And to your knowledge have these conveners held meetings, convened meetings?

A I know that the sequence groups have been meeting.

Q And the concentration groups have been meeting as well, I take it?

A Yes.

Q All right.

Turning to the practice concentration areas, would you tell us the kind of subjects that are dealt with in concentration meetings?

For example, take case work as an example, so that the reader of the record will understand what goes on in these meetings.

A All right.

In social work education the term social case work has many nuances and definitions from psychotherapy to treatment, and what this particular sequence for example is trying to do is trying to discuss social case work, what it is according to the likes of the [3507] teachers in this particular school.

Q What practical application does that have in the school itself?

A Well, it is trying to arrive at how courses in a social case shall be taught with which nuance is to be

stressed when the students bring their case materials to class.

It is an attempt to arrive at a school position on what case work is.

Q Is that—does that affect the quality of the instruction in your school?

A Oh, yes.

Q And is the quality of the instruction in your school —does it have an effect on the number of students who choose to attend your school?

A We believe it does.

Q Would you give us an example of the kind of things that go on in sequence meetings as opposed to the practice concentration meetings that you have just been referring to?

A Well, let me take research which is on page 31.

People with the background of Sue Maizel coming out of the classical research orientation which is in a sense quantitative would be exposed to discussions with people who come out of a practice orientation who [3508] themselves have been social work practitioners and have become research teachers and the attempt to look at each teacher how does one help a social work practitioner research his own practice as against dealing with material outside one's own work, you know, how many clients come to the agency as against how many—how am I helping a client.

Q Does the work that goes on in the sequence meetings affect the quality of instruction at your school?

A We believe it does, yes.

Q And the number of students who choose to attend your school?

A Yes.

Q These conveners, do they receive a reduced load for being conveners?

A No.

Q Do they receive a stipend for being conveners?

A No.

Q And they are not mentioned as conveners, are they, in your catalog?

A No.

• • • •

[3510] Q Dean Green, let us turn now to the governance of the Wurzweiler School.

Would you tell us how the Wurzweiler School is governed, what is the basic structure?

A The basic structure of the school has been to have a dean at its head.

It has a brief history of an assistant or associate [3511] dean, but the—I think the history will show that the internal operation of the school has been heavily governed by faculty decisions.

Q Let's turn to that for a moment.

Is there a constitution or by-laws governing operation of the faculty at the Wurzweiler School?

A There is no written document that has been accepted that way.

Q There is no constitution or no by-laws?

A No.

Q How then does the faculty make its will-felt, through what means does it make its will felt in the governance of the school?

What kind of a structure is there? Are there meetings, how does it work?

A Well, the primary—the primary way that the faculty makes its desires and will felt is at faculty meetings.

This is—the frequency of these varied from once a week to twice a month, that is every other week, to an experiment we are trying this year to meet once a month, but it is at these meetings that decisions are arrived at and acted upon.

Q Now, Dean Green, are part-time faculty members eligible to participate in faculty meetings—I will [3512] withdraw that question since you don't have any formal governance document.

Have part-time faculty members participated in faculty meetings?

A Irregularly overtime.

Q But they have participated?

A Some have.

Q They haven't been told or asked to leave?

A Oh, no, no.

Q Are they required to participate?

A No.

Q Now, would you tell us as best you can the kind of questions and matters that are dealt with at faculty meetings?

I am not asking you for every matter that has been dealt with at every meeting but would you please give us a broad sampling—

A Yes.

Q If you can.

A Yes.

Faculty meetings generally are helpfully concerned about the educational program of the school, the curriculum.

Q What does that mean?

A What courses should or shouldn't be taught.

[3513] What sequence—in other words, what order they may be taught in.

Whether they should be for one year or for six months.

They have discussed—

Q Excuse me a minute.

MR. KRAMER: Could we go off the record?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Read back the witness' last response and let's have him continue his answer.

(Record read.)

A —they have also discussed the standing of the students, decisions about whether students who—students will graduate or not are decided by the faculty.

They have also discussed the financial state of the university and its relationship to the school's development.

We made a decision, for example, that has been a very serious one in the sense of enlarging our school by increasing the number of people we would take in. That was a faculty decision.

They advised us and the university that they felt that a certain sum of money might be more appropriate [3514] to be the tuition increase rather than the amount that I had thought would be—things of that nature—and of course questions of governance come up from time to time.

Q Now, you have told us, faculty meetings concern themselves with curriculums and course offerings, is that correct?

A Yes.

Q What would be offered and when, is that correct?

A Yes, yes.

Q Does that have an effect on the number of students that are attracted to your school?

A I believe it does.

Q All right.

Now, who has the final decision making authority about whether these courses will or won't be offered and what the sequence of the courses will be and the like?

A It's generally been the faculty.

Q Have you ever overruled a decision of the faculty in this regard?

A No.

Q To the best of your knowledge did your predecessor ever overrule a decision of faculty in this regard?

A No.

[3515] In fact, he engaged them to arrive at the decision.

Q Now, you have told us that the faculty meetings concern themselves with the standing of students.

A Yes.

Q What does that mean in lay terms?

A Well, it is most graphic when you discuss the students in trouble and it is the faculty that makes the decision whether a student gets notice which means that he is given an eight-week period to shape up or ship out and it is also the faculty that votes as to whether the student shall continue or not.

This is not made by any one person.

Q Now, does the continuance of a student in the school or the discontinuance or termination of the student

in the school have a financial impact, a money impact on the university?

A Oh, sure.

Q Tell us about that.

A Well, if a student—for example, we recently had such a case and if the student had been asked to leave at the end of this semester which just ended on the 31st of January, his tuition would not have been our income.

Q And his spot would have been empty?

A We would have lost his income?

[3516] Q Now, speaking of income, income from students comes essentially from tuition, does it not?

A Yes.

Q And you have made reference a few minutes ago to faculty having a role with respect to a tuition increase.

Could you tell us the facts and circumstances surrounding that when it took place and what happened?

A I think it was sometime last winter, around '73, in December, roughly, when we were looking at the total picture of the university's financial situation and it became evident that a recommendation was in order for some way to get money and since we had already increased the number of students on a faculty vote, I put it to them as seeking there advice as to what the tuition increase ought to be.

I had felt that $500 a semester— I'm sorry, a year, would not be too exhorbitant or too difficult for anyone, but the faculty as a group felt that it ought to be about 300 and then when discussions were held with university officials, like Dr. Sokal or the financial—student financial officer, Mr. Nussbaum, they took the—they felt that would be okay, and they accepted the advice.

Q As acting dean did you feel that you had the [3517] authority to overrule the faculty's position that $300 should be the increase or that you were bound by that position once it was taken?

A There's been—I would say the tradition would make me bound by it, but one could say that the dean's position could always allow him to possibly fight it.

Q When you say tradition would indicate you were bound by it, what do you mean by that?

A Well, in all—most of these areas that I have been trying to explain, the faculty has very major role in making decisions and I would say that by and large most of the deans that I—as far as I could tell from experience with them, Dr. Tyker and Dr. Rosenthal felt that a vote by the faculty had the strong—strong impact on any decisions that he would make.

Q Now, you have told us just a moment ago that the faculty—I am not using your word now, decided to increase—decide was not your word—decided to increase the number of students or decided on an increase.

Would you tell us about that, when did that take place and what were the facts and circumstances surrounding that?

A Well, I think it was about two years ago Dr. Rosenthal, my predecessor who is deceased, submitted [3518] to the faculty a list of possible ways that money might be—income might be generated, and I think the—one of them was question of raising the number of students we admit in the entering class each year, I think the figure at that time was 26 more students than we had ever taken in before, and that was the decision of the faculty, that we do take in 26 more in every entering class thereafter, and that was acted upon.

Q Is there a faculty commission committee or commission on admissions at your school?

A Yes.

Q Can a student be admitted to your school without the approval of the faculty committee on admissions?

A Generally not.

Q By the way, what is the tuition for a master's degree graduate student in your school?

A $2,300 a year.

Q Now, you also told us that the faculty meetings have a role in making proposals re governance, is that correct?

A Yes, they do.

Q Is there currently pending a set of guidelines that have to deal with governance?

A Yes.

[3519] Last year the faculty on whatever one was agreed was merely a consensus approval did receive from a personnel committee a set of guidelines which they only in principle had accepted as something to be a working instrument to discuss this coming year, this year.

Q I am going to return to those guidelines later in your testimony, but is it the faculty meeting that has the ultimate determination as to whether those guidelines are promulgated, is that correct?

A Yes.

Q Now, in addition to the faculty meeting apparatus that you have just described, is there also a faculty cabinet?

A Yes.

Q Would you tell us about that, what is it and how it functions?

A A number of years ago the faculty was seeking for some mechanism by which issues could be more focused, better prepared for presentation to the faculty, that might handle any emergency decisions that come up between faculty meetings, even help organize faculty committees who might work up some issues and be presented to the faculty for action.

This resulted in a structure of about six people, three of them were elected from the faculty, the dean and [3520] the assistant dean were automatically members and the dean was allowed to appoint a third member so that six people make up the cabinet, and it functioned for awhile, and this year when we resumed our school, the faculty opened this up for discussion as to whether that was the best way to govern between meetings and to help the faculty focus on issues and for a short time, because they didn't vote to have it again, there was no cabinet, and it was only maybe two months ago which the faculty voted to reinstitute the cabinets under the old arrangement and its been functioning now for about three or four meetings.

Q What were the kind of issues that were dealt with during the last three or four meetings?

Just give us for a feel what goes on there.

A In the cabinet?

Q Yes.

A Well, the last issue we discussed was what plans should we introduce to the faculty for the reorganization of the school to handle issues of overload as some people see it.

We have talked about waiving credits for some—courses for some extended program students.

I have introduced a new idea of—that I would like to see the school take on a block placement program [3521] which they discussed briefly.

Those are three that come to mind immediately.

Q Let's turn for a moment to this question of waiving credits for extended—

A Extended program students.

Q —extended program students.

What is that all about, Dean Green?

A Well, we have a practice, people who are eligible to enter school, we allow about ten or twelve people to exercise an option of stretching their education out over a five-year period instead of a two-year period that the full-time student has.

We call these people extended program students because it is extended.

Generally, a woman whose children have grown, and they're getting back into the academic swing.

This means that some of them might have entered school in 1971, September '71, approximately—

I am thinking of a case yesterday—in the meantime we have had at least two switches in how the curriculum was organized.

In 1972 let us say, I think that was the year, we changed the whole 4th semester into a whole different form and we tried it out for two years and I think around the beginning of '74, I am not sure of my timing — [3522] approximately, we then went back to something closer to the old system.

These people get caught in the middle.

In other words, they take some courses—they took some courses which at that time were one-semester courses because of the new arrangement, and now as they get closer to finishing up, they are two-semester courses, and they—two or three of them petitioned in this instance, they took that course when it was only one semester course and took other courses in its place—that might fill in, they wanted to be allowed not to take a second half that had been reintroduced, of an original course like Jewish Social Philosophy.

So this cabinet and—they then discussed the situation and made a decision on the basis of the previous precedent to allow them to waive that course, or allow us to waive the course.

O A waiver of a course or a waiver of credit would have a financial impact, would it not, on the university?

A Especially with these people because they pay by the course.

So every course is $150 for them. They don't take it, we don't get the $150.

Q You told us there is an extended program at your school. Why was it necessary to have such a program?

[3523] A Well, it was really a service to the community; there are some good people who want to come back to school, and this attracted those people who wanted to go back.

A Does the existence of such a program have a financial impact on the university?

A Oh, yes.

Q Tell us how that comes about, Dean.

A Well, first of all it is another recruiting device which guarantees us every year of at least 12 solid students who will go into the full-time program when they will pay the full $2,300 tuition.

I don't know whether that is an answer to you but basically in addition to that there is a community service aspect of attracting some solid people who want to come back to school.

Q Now, dean Green, you have told us there were two switches in the curriculum for this extended program.

A Yes.

Q Who authorized those switches?

A Well, basically the faculty did.

The first switch that took the four-year—the fourth semester program that you have listed here in the 74-76 program, and changed it in such a way that you—you

know, it just doesn't compare to the present, [3524] a student faculty committee came up with recommendations, it was brought to the faculty, the faculty voted to try it that way and that's the way it was.

Q Could the extended program exist at all without faculty approval?

A No.

Q Was it in fact approved by the faculty?

A Oh, yes.

Q You told us about a block program—

A Some years ago.

Q Referring to the cabinet you mentioned as an example, a block program, will you tell us what a block program is?

A Well—

Q Or would be?

A Let me start this way:

The present program is called concurrent which means that concurrently they spend two days in class, three days working in the social agencies.

The block placement is a different form in which the student would come to school for about fifteen weeks, June, July and August, and concentrate all of his academic material at that time and then the winter and spring would then be spent in social agencies on a full—almost full-time basis with faculty visits and certain [3525] academic assignments that come out of their practice.

That's block plan.

Q In your view would this be more attractive to students?

A We think that it will be very attractive to a certain group of students in the community.

Q Would it provide a greater utilization of your facilities?

A Oh, yes, because—yes.

In the summertime the building is empty except for some courses given by Ferkauf.

We offer no summer programs at this time at all so that it would make productive use of our place.

Q And would it affect the assignment of faculty, both part- and full-time?

A It could affect the present group of faculty, yes.

Q Dean Green, have you directed that this program be instituted?

A No, no.

Q Have you ordered it?

A No.

Q Have you the authority to order it?

A I have been tempted to try. I am not sure.

My own way of living within the school's way of working would be that once this plan is truly tested [3526] in terms of discussions with the social agency community.

And people who have done this at Smith College where two examples of this are, that this ought to be and will have to be in a sense submitted to faculty, if not for final approval at least to—for some advice and consent because it eventually should have some impact on the total operation of the school.

Q At any time during your presence at this school, both as a dean and as a faculty member and before being a dean, has any program of this type, any major program change of this type been implemented without the approval of the faculty?

A No.

In fact, this idea was presented in the—at least twice sometime between '59 and '70 and it was voted down by the faculty.

Q And not implemented?

A And never implemented.

Q Now, there have been discussions of this block program this year, as you testified?

A Yes.

Q Have you received reaction from faculty?

A Well, I happened to receive—testing the idea by circulating rough outlines of what this thing might mean in terms of an educational program and everybody [3527] getting some responses from the different faculty members as to its value to the school.

I was invited to say a few words about it to a group of field instructors who had come to the school to discuss

our mutual relationship as a school and agency, and the day after I had mentioned this to the field instructor I received two memoranda.

One was from a faculty member who very tersely wrote how could you speak about this plan having faculty support when it wasn't discussed by faculty yet, and it had been discussed by the cabinet and nobody had disapproved of it in the cabinet and then I received a correction to the cabinet minutes—which elaborated on the faculty governance issue.

Q When you say elaborated on it—

A Well, the minutes of the cabinet just—I don't recall the wording—but said something about it had been discussed and I don't know whether it says anything about approval or positive response but it was discussed.

This correction to those minutes indicated a very elaborate statement by one colleague who wanted to make sure that it had not been introduced to faculty yet, that it had—et cetera.

Q Now, this addition to the faculty meetings themselves and cabinet meetings you have discussed, are [3528] there also faculty committees, both standing and ad hoc?

A Yes.

There's—they have the admissions committee which is made up of myself and a number of faculty and the admissions person.

Another regular committee is a doctoral committee, functioning committee that is standing is field instruction committee, and the kind of standing committee is this community social work committee.

Those are some I can recall without a list.

Q Now, in addition to these standing committees in the last year have you had ad hoc committees?

A Yes.

Q Tell us about that, if you would.

A Well, I consider an ad hoc committee a committee that discussed extended program student problems because as I noted before they keep coming up every year no matter how we try to anticipate them, on the status of students, vis-a-vis courses.

We also have the personnel committee that prepared the guidelines, existed to do the job and then went out of business.

There was a committee to talk about a course called the psycho-social pathology course.

Once it did its work it went out of business.

[3529] Well, those are some that I can recall ad hoc.

Q Would you tell us who is the chairman of the admissions committee?

A Dr. Esther Lentschner.

Q Does the admissions committee have any clerical employees assigned to it?

A Yes, there is a secretary you might call her. She spends all—practically all of her time—all her working time with Mrs. Lentschner.

Q Let's focus on this admissions committee for a moment.

The chairman is Mrs. Lentschner?

A Yes.

Q Who else is on that committee?

A It's been a tradition for the dean to be on and then it's a kind of rotating—Dr. Lentschner has kept a list and has tried to help us circulate so that every year we get new members so that all of the faculty will have served on this committee at one time or another.

Q Now, to whom does the clerical employee assigned to the committee report?

A She works with Dr. Lentschner.

Q Have you had an opportunity over your years at the school to observe the relationship between Dr. Lentscher and the clerical employees from time to time?

[3530] A Yes.

I mean it is right on our floor and by relationship you mean—

Q Inter-personal relationship, on the job, of course.

A Yes, well, Dr. Lentschner instructs the secretary when certain letters have to go out, certain—what certain responses should be to inquiries or acceptances or refusals, desire for more information, et cetera, so they are constantly engaged.

Often Dr. Lentschner sits in that office and gets things done with Mrs. Ruderman.

Q That is the name of a clerical, is it not?

A Yes, Mrs. Ruderman is the secretary.

Q Does Dr. Lentschner tell Mrs. Ruderman what to do?

A Yes.

Q Tell her to do the job over again?

A Yes.

Q Reprimand her for doing it poorly if she does it poorly?

A Yes, there have been times like that.

Q There have been—

A I know that Mrs. Ruderman if she gets a brusque critique feels a little upset about it, and you see it.

[3531] Q Is there any question in your mind that Dr. Lentschner has the authority to do that?

A No.

Q If a secretary or clerical employee were incompetent to the point of not getting the job done properly consistently, would Mrs. Ruderman have the authority to recommend her termination?

A You mean Mrs. Lentschner?

Q Dr. Lentschner.

A I think she would have the authority to have her moved out of the admissions as far as removal of the job, that would be a different issue.

Q It is correct that she could effect her transfer, is that correct?

A Yes, I believe she would.

Q Or reassignment to another job?

A Right.

• • • •

[3532] Q Before proceeding to that, do you have any idea how much of Mrs. Lentschner's time or Dr. Lentschner's time is spent supervising the clerical you have just described to us?

A Well, her primary responsibility is to be the person in charge of admissions to the school of social work, so that from the very beginning of the year to the end of the academic year they are very closely tied together.

There are some lighter times and some heavier times.

The fall might not be as involved, it would just be a matter of seeing that Mrs. Ruderman gets catalogs out, responds to applications, sends letters out to answer inquiries, towards the middle of the fall she would then be engaging Mrs. Ruderman's duties in preparing statistics she needs and inpreparing folders [3533] for the admissions committee, gathering comparative data from one year to the next, et cetera.

They work very closely. They both have keys to each other's doors, so to speak.

Q Is there any way that you can tell us whether or not Mrs. Lentschner spends 50 percent or more of her time or less of her time supervising Mrs. Ruderman?

A It's hard to put a number to it but it's heavy.

Q Are there any records that would reflect that that you know of?

A I have none, no.

MR. KRAMER: We will state that we have made a search of our university records in preparation for this case and have found none.

• • • •

Q Now, does Dr. Lentschner have a reduced teaching load as a result of her work as director of admissions?

A Yes.

[3534] Q Would you tell us the—what that is, if you know?

A Well, she might be giving one course in the spring semester rather than two and she would teach two in the fall rather than three.

So there is a lightening of the load.

Q Now, let's turn for a moment to field instruction. Would you tell us what field instruction is?

A Well, it's a conception of education which draws or grows out of a conviction that people learn from the doing and in the doing make better connection to conceptual or abstract material than if they just study so that students have placed in social agencies at the very beginning of the school year for three days a week for field instruction in a social agency.

Q When they are placed in a social agency for field instruction are they guided by a field instructor?

A Yes.

Q Are field instructors employees of the agency or to they draw their sustenance from the university?

A In our school they are employees of their social agencies.

Q Does your school give these field instructors any payment for acting as field instructors?

A There is no money given to any field instructor.

[3535] Q Do they get free courses?

A No.

* * * *

[3537] Q Now. Dean Green, in addition to the field instructors who come from the agencies and work with the students at their particular agencies, are faculty assigned to the field instruction program?

A Not as field instructors.

Q No.

In some other fashion.

A They are related to the field instruction as liaison representing the university.

When they go out and check and talk about the student's progress in the agencies.

Q They sort of bridge between the school and the agencies?

A Yes.

Q Now, you told us there is a field instruction committee.

Would you tell us what that is made up—who that committee is made up of?

[3538] A To the best of my knowledge it is made up of faculty and occasionally students are invited to sit in and make suggestions and recommendations as to how field instructors can be used or changed and so on.

Q Is it headed by anyone?

A We have a person called a field instruction coordinator who is the chairman of this committee.

Q And his name is found on Employer's Exhibit 135, is it not?

A Yes.

Mr.—Prof. Samuel Goldstein, coordinator field instruction.

Q Would you tell us what that committee does, what is the function of this field instruction committee?

A Well, it really helps the coordinator to monitor how field instruction is going in general, makes plans for educational conferences between the school and the field instructors, engages in what agencies we ought to go looking for or respond to because agencies sometimes don't stay with us after three or four years and we wanted to replace them with other agencies and makes recommendations to the school as to whether we ought to get into areas like corrections, department of social services, things of that type, we don't really get too involved in.

[3539] Q Would it be fair to state that the field instruction committee at the university can enforce its views without any further approval or must further approval be obtained from the faculty?

A No, generally what it does is it can organize conferences if it wishes but I think it would have to bring faculty whether for a vote or at least for discussion if it recommended certain agencies ought to be dropped or if certain agencies didn't seem appropriate for our kind of school.

Q Is the dropping of an agency an important decision—

A Oh, yes.

Q Why?

A Well, first of all we have to decide that we are doing it for the good of the school, the student, but there are public relations impact in how our university will be seen by the professional community, whether we work according to principle.

It is how we do it that becomes important to our reputation as a school.

Q Is ability to attract the cooperation from first rate agencies in the community affect your ability to draw good students to the school?

A Well, yes, because these agencies are people who often recommend who they thing are their good people

[3540] to come to work as work study students or just in general talk up the school.

Q And has it an effect on the number of applications you receive for admissions?

A I would say yes.

Q Does the school have a relationship with the Queens Educational Center?

A Oh, yes.

Q How did that relationship come to pass and when?

A Some years ago—really no, the exact date—Adelphi University School of Social Work started a relationship with the Long Island Jewish Hospital, Hillside Queens General Complext.

They approached us after one or two years, I think, our school, to become partners in this conception that they called an educational center.

It was proposed by Prof. Goldenberg, I think, discussed a number of times.

We had some so-called evidence by two of the leaders of this center came up to the faculty, to tell what it was and so on and then we voted a two-year or three-year experimental relationship which basically meant sending students—a minimum of ten students each year to be placed in Hillside Queens General, Creedmore, I think three or four, five agencies.

[3541] Q This required approval of the faculty?

A It was given, yes.

The faculty voted on it.

Q And did the agencies seek out the faculty's approval?

A Yes.

Q It didn't come to Dr. Sokal, did they?

A No.

Q Dr. Fischman?

A No.

Q The president of the institution?

A No.

Q It came to the faculty?

A Yes.

• • • •

[3542] Q Let's turn to the doctoral committee.

Would you tell us the function of that committee?

A That is made up of all people who teach in a doctoral program and one or two people who are—have their doctorates but may not be teaching.

Its function is to conduct a business of the doctoral program.

The committee decides on who shall be admitted.

It receives recommendations for who shall go on to the second year of study.

It passes on proposals.

That is, proposals for dissertations, and accepts them or sends them back for further work.

It votes as to—on the recommendation as to whether a person is ready to receive his doctor of social work degree.

[3543] Q Are some social work schools harder and more difficult to complete a doctoral program in than others?

A So students say.

Q Does this have an effect on the number of doctoral students that apply to the schools and their quality?

A I couldn't say.

Q Now, who is the chairman of the doctoral committee?

A Dr. Lloyd Setlees.

Q By the way, the management of the doctoral program have an effect on the finances in the institution?

A Oh, sure.

Q Tell us about that, please.

A Well, first of all the tuition is a little higher. I think it is $2,700 a year, and I think to meet some of the economic problems as well as to encourage recruitment, to—so the school might never fall below at least an entering class of ten, the doctoral committee voted and began to take in about seven or eight part-time doctoral students, people who qualified for admission, but who were allowed to start by taking one or two courses.

That is very helpful in terms of recruiting, enhancing the reputation of the school.

Q That was their determination?
[3544] A Of the doctoral committee, yes.
Q Was it also their determination to work with about ten a year?
A Oh, yes.
The doctoral committee has also voted and reaffirmed many times what they call the residency period is to be and it is a set of four courses which no one can take except when they are full-time students and that is a decision of the committee.
Q Did you have—were you involved in that decision?
A Well, I was a member of the doctoral committee and I still am as a teacher in that program.
Q When was that decision made?
A When the doctoral program was begun, and then a —two or three years ago, I am not sure, the doctoral committee began to reassess, are we doing the right thing educationally and their conclusion was that we ought to keep this fixed for one-year program, this four semester —I'm sorry, four courses, one-year residency program just the way it is.
It seems to be doing the job and—that was it.
Q That is within their authority to make their decision?
A It apparently has been yes. I know of no reason why it should be taken away.
[3545] Q Do you know a Dr. Setleis?
A Lloyd Setleis, yes, a member of our faculty.
Q Is he chairman of the faculty committee, doctoral committee?
A He is referred to as that.
Q Does the doctoral committee have a secretary?
A This year we received a grant which gave us money for a secretary hired by the hour which does work for Dr. Setleis primarily although she is sometimes called on for a little bit of other help.
Q Does Dr. Setleis have the authority to tell this secretary what to do?
A Yes.
Q Pull her off one task and put her on another?
A Yes.

Q To establish work priorities for her?
A Yes.
Q To reprimand her when she doesn't do a good job?
A I assume he would feel comfortable to do that.
Q To have her terminated or transferred should she not prove satisfactory?
A Yes.
He could recommend that she ought not to be working with him and then being that she was taken on primarily for that reason that would mean her termination.
[3546] Q He would have the authority to do that?
A Yes.
Q Who would that recommendation be made to?
A To the dean.
Q To you?
A Yes.
Q Do you know how much time Prof. Setleis spends telling the secretary what to do?
A Not exactly.
Q Reprimanding her?
A No.
Q Moving her from one task to another?
A I have no time picture—no information.
Q Establishing work priorities?
A I'm sorry.
Q Does the university maintain any records that would reflect that kind of information?
A No, not of his direct work, one way or the other with her.
MR. KRAMER: I will note we have searched the files and found no such information. There is none.
Q Does Dr. Setleis receive a reduced teaching load to compensate or—as an equivalent for his work in the doctoral program?
A I have tried to give him one but he doesn't take it.
[3547] Q In other words, he would be—he is entitled to a reduced work load?
A Yes, yes.
Q Now, is there a community organization committee?
A As I pointed out earlier we have community social work committee.

We don't use community organization any more.

Q All right.

Would you tell us who makes up that committee and what its function is?

A Well, at the present time that committee is made up of the two faculty members who teach the practice courses in the community social work. That is Dr. Levy and Dr. Levitz.

And there are—besides myself at least two other members of the faculty invited to discuss material pertaining to the practice of community social work and how it is taught at a school.

Q What role, if any, did the Federation of Jewish Philanthropist play in connection with the establishment of this committee?

A They didn't play any direct role, but four years ago they invited the school to enter into a contractual relationship where they would supply something like $40,000 a year for us to open up the community social [3548] work program, and they financed and are presently still financing the program and the community social work committee was organized to work with the federation committee that is in a sense monitoring how that money is—not how—but how the educational program proceeds towards an objective that was mutually agreed upon at the time that the contract was written.

Q Is there an interface between your faculty committee and the federation committee?

A Yes.

Q Would—give us a feel for what that interface is all about.

A Well, the federation has a committee called the Weiner Committee—Weiner Educational Center Committee which provides the funds for this program and they have requested in the early days to have a connection with the faculty and the students in this program in order to in a sense keep an eye on whether this program is meeting the objective of training federation executive people for Jewish community federation work and we have up to this fall—we have generally met with them at least once a month to discuss the program, to discuss our—to criticize

each other in how we are thinking or not helping one another towards that objective.

Q Is the maintenance of a satisfactory relationship [3549] with the federation committee have an effect on the continuance of funding of the program?

A Oh, yes, extremely valuable and important.

Q And faculty members, I take it, full-time faculty members who are on the committee have a role in maintaining that relationship?

A Yes.

Q Now, are you familiar with the Atran lecture series?

A We get a subsidy from the foundation.

Q And is this, the Atran Foundation provides a subsidy?

A Yes.

Q Is there an Atran lecture committee at your school?

A Yes.

Q Who sits on that committee?

A Prof. Feiner and one of the students I can recall, Miss Osserbell.

There is a small committee of students and faculty people who discuss who should be invited to speak.

Q One faculty member?

A I believe it is only one.

Q The budget for this committee at this year—

A It is going to run about $5,000.

Q And that $5,000 is used to hire lecturers, is that [3550] correct?

A Yes.

Q And Dr. Atran is in charge of that function, is he not?

A No.

Q Dr.—

A Prof. Feiner is the committee—is the faculty member on the committee representing the faculty interests in topics, et cetera.

Q Are the recommendations of this committee as to who should be invited to speak and paid for doing so generally accepted?

A Yes.

Q Let's turn to hiring, Dean Green.

Would you tell us the procedure or method by which new faculty members are hired at your school?

I am talking about full-time now, not part-time.

A I think at the present time one can describe it—

Q I am going to withdraw that question for a minute.

What I would like you to tell us is in actual practice—

A How it works?

Q —how it works as opposed to some pay procedure that may or may not exist; what is the reality of the situation?

[3551] A Once it is ascertained from discussion both with the faculty as to what we need and then some clarification with the university about the budget available, you know, for looking for people, whether it is two or three or whatever, a search is begun, a broadcast is made for people to apply.

The practice has been for applicants to come to the phone, if he shows any interest, he can invite people to come up for an inquiry for kind of a look at one another, and then if anybody looks good, an ad hoc committee has been generally established under the title of faculty selection and interview time is set up for any applicant that looks good to meet with this committee and then a recommendation of the committee is made to the dean as to whether this person or that person is hirable, preferable and so on and generally the dean has acted on that recommendation.

I know I have when I had to do it.

Q Who determines the salary to be paid for the new hire, how is that done?

A That is generally between the dean and the person to be hired.

Q And who determines the range to be afforded the new hire?

A That is similarly between the dean and the applicant.

[3552] Q The selection however, of a particular person is made on the basis of a recommendation from the ad hoc committee, isn't that so?

A Yes.

Q And that is generally accepted?

A Oh, yes.

I don't know of any—there is—in the minutes of the faculty there is a stipulation of faculty preference which has guided all the deans that I know of here that nobody ought to be hired for our faculty or for any academic rank under an assistant professor, and every dean that I know of has honored that faculty preference.

Q Now, last year, was it your desire to hire a particular faculty member and were you able to effectuate that desire?

A It was.

Q Would you tell us about that?

A Yes.

We had a very good lady in mind for our faculty and we were moving ahead on the basis of the faculty selection committee, an ad hoc committee that had expressed strong support of her candidacy.

We wanted to establish a female committee, that is, a committee of all the women on the faculty to [3553] have lunch with her so as to give her a chance to meet them on their own terms so to speak as woman to woman. That was a preference of some faculty members, and when I was setting that up the faculty voted a moratorium, in other words, they bound one another not to cooperate in this luncheon meeting that I had thought I was setting up, in order to press me to press the university to clarify the status of the three grant people, the faculty had made a kind of faculty decision that should there be an opening on the faculty, grant people should have first preference.

At that moment in time three grants were running out and talking about hiring another person without clarifying whether these three people would be kept on, so infuriated the faculty so to speak that they voted that they would not participate in any such welcoming and so this luncheon never came off and eventually this woman took a position at the University of Virginia or the Commonwealth—well, whatever, it used to be called the University of Virginia.

Q Who filled that vacancy?
A I am trying to remember if anyone did.
I can't remember.
May I look at this catalog?
Q By all means.
[3554] A To see if any name rings a bell?
Q Sure.
A I would like to answer that if I can.
Let me just say this:
No one took the place. The only new person—I'm sorry, yes, yes, Dr. Chartock, listed in the catalog, he was hired.
I can't say whether it was in place of, but he was hired.
He came on last year.
Q And was he just—was he screened by a faculty selection committee?
A Oh, yes.
Q Was a recommendation made?
A Yes.
Q And you accepted it?
A Yes.
He had been seen previously by the late dean Rosenthal who asked me when he became ill to establish such a committee and then this committee met and recommended that he be hired.
HEARING OFFICER: Was Dr. Chartock one of the people on grant?
THE WITNESS: No.
The three people on grant were placed on the [3555] university payroll.
HEARING OFFICER: Prior to—
THE WITNESS: Prior to his hiring, that determination was made.
Q Now, you have been at the school how long?
A Since August 1958.
Q Was any dean during your sojourn at the school attempted simply by the exercise of his authority to override a faculty negative vote of the type you have just described?
A I don't recall any. I really don't recall any.

Q What would the practical consequences of that, Dean Green, be?
A If he would do that?
Q Yes, in the real world.
MR. SCHECTMAN: If it has never occurred, I will object to this question.
HEARING OFFICER: Sustained.
MR. KRAMER: I would make an offer of proof here.
HEARING OFFICER: What is your offer of proof?
MR. KRAMER: If the witness were permitted to answer it would be that the situation is such at the school that were a dean to attempt to override by use of personal authority the negative vote of the faculty in a matter such as this, there would be a serious [3556] question whether the dean would be able to continue as dean.
HEARING OFFICER: On what basis do you have—
MR. KRAMER: I would be delighted to have the witness give you his answer.
He has much more basis than I have but I had my question held objectionable and I have not been able to have the witness answer.
This witness has been there for 12 years. The realities of academic life are what they are. We are just trying to get them established in this record.
If we can't get them established in this record, then we simply will make an offer of proof.
HEARING OFFICER: I will reconsider my sustaining of the objection provided you can set a basis for an answer to the question.

* * * *

[3557] Q Dean Green, have there been other negative votes of the faculty during your sojourn as a faculty member and dean and assistant dean at the school?
A Well, there have been negative actions or reactions.
Q And negative votes?
A Yes.
Q On particular issues?
A Yes.
I am trying to recall—I am trying to remember at the moment and I haven't—I know of no negative consequences.
I can't recall—

[3558] Q Have there been other situations while you have been a faculty member, assistant dean and dean where the faculty's view and the dean's view on a particular issue were just opposed?

A Just opposed?

Q In opposition.

A Well, one thing comes to my mind and that is what I meant by negative reaction.

The appointment of a chairman to the original—the first doctoral committee.

Q Tell us about that.

A And also one, now that I say it, I know of the first committee that was going to work with the federation people.

There was such objection to—in the first case to the person who was then the so-called chairman, that a number of people withdrew from participation on that doctoral committee.

Despite the invitation of the dean for them to participate until Dr. Setleis was appointed a couple of years later, but there was a lot of flack as to why he insisted on keeping Mr. X or Dr. X on that job.

HEARING OFFICER: Was there a uniform faculty meeting at which the entire faculty reacted or is this just the personal feelings of a number of members of the [3559] faculty?

THE WITNESS: I would say it was the latter because—

HEARING OFFICER: Just the personal feelings?

THE WITNESS: Yes.

It was not a matter really that the faculty as a whole—

HEARING OFFICER: On the second point you mentioned?

THE WITNESS: I would have to say it was similar that people felt that it was unprofessional, degrading, et cetera, and they withdrew from any participation.

HEARING OFFICER: Okay.

A And then told the dean that he couldn't depend on them.

It never came up by either party in the faculty as a whole.

Q Dean Green—

THE WITNESS: As I can recall.

Q —is it a fact that the deans of your school during the time that you have been both dean, acting dean, assistant dean and faculty member have not acted contrary to the wishes of the faculty?

A I think on the significant issues I can't think of a one time that there was any—just ignoring of the faculty's wishes.

[3560] Q Is there a reason for that?

A I think the conception of a group of social work educators out of their own tradition, democracies and participation and the tradition of the school which grew up out of a faculty of four or five, that made the decision or opinions of faculty more valid than perhaps otherwise have been.

• • • •

[3562] Q You told us about the hiring of full-time faculty, Dean Green.

Would you now describe how the part-time faculty are hired?

A The people listed on the evidence or exhibit?

Q Yes, sir, people who are in the status of those listed in the second column of Employer's Exhibit 135 under the heading part-time.

A Well, when we discover that we need someone, it can be either I reach out as the acting dean or as faculty knows about the operation, they might recommend people to contact and will—we will either call them or write to them and try to close the arrangement.

Q Is there an ad hoc committee at the—in each instance the way there is for full-time faculty?

A No, no.

Q Now, let's turn to the question of promotion of full-time faculty.

How is that decision made?

What is the way—what is the actual practice [3563] in the school with respect to promotion of full-time faculty?

A I think the actual practice at this moment is that the—it's been I think something between the dean and the faculty person that puts in a request.

When they get through with the idea as to whether that is a legitimate request or not, as per some regulations that I—I remember being part of the group that the faculty once organized a statement on promotions from an associate—assistant to an associate, associate to full, and in that particular—if the person and the dean agree that that's been satisfied, then the recommendation has been sent up to the president for—for his approval.

Q That is not a subject that is voted on, is it, by the faculty?

A Not at this time, no.

Q And—

A It is part of the proposed procedure.

Q At the present time there is no faculty committee?

A No.

Q That determines whether a promotion is to be granted or not?

A Not at this moment.

Q Or makes an effective recommendation?

[3564] A No.

Q With respect to promotion?

A No.

Q Let's turn to tenure.

Would you tell us what the practice is there at your school with respect to the granting or for that matter withholding of tenure?

A At the present time it follows a similar pattern.

I have'nt had any personal experience as an acting dean with the question of tenure, but my understanding has been that in the 18 years I am on the faculty those people who continue on into the eight years have been automatically granted tenure as per the faculty handbook.

Q Was there some—strike that.

Is that a decision made to retain them until the date—until the eighth year by the dean or is it made by a faculty committee?

A At the moment I would say that is the dean's—let me put it this way:

Nobody in our school that I can recall has been hired on a year to year basis, as long as they haven't been told to the contrary, the people come back in September.

Q Now, let's deal with those situations where people [3565] are told to the contrary.

In other words, are not reappointed or are terminated.

A It has happened once, yes.

Q What is the practice there, at least in that one instance?

A In this one instance the dean informed the faculty member that he was not to be rehired at the end of the year, and I think he took the stand—this is Dr. Rosenthal—took the stand that according to the AUP regulations he had that right as a dean within the first year of a person's service to the university.

Q Was there a faculty committee that decided that there would not be a reappointment in this case or was it the dean?

A In this case it was the dean.

A committee—

Q Go ahead.

A The faculty didn't want to let it rest there, and so it instituted what you might call an informal hearing as a faculty and it had both the dean as a witness for himself and the faculty member who was to be discharged—who was discharged as of the coming June he came as a witness for himself, and I think what the faculty decided to do was that there was no case and they were not going [3566] to get involved.

Q And the discharge stood?

A And the discharge stood.

Q The faculty did not vote to reverse the discharge or have it reversed?

A No, they did not.

Q But they did hold a hearing on the subject?

A Yes.

Q All right.

And the dean submitted to himself—he submitted himself to that hearing as a witness, is that correct?

A Oh, yes.

Dr. Rosenthal did come to that.

Q Was there an appear in this case of the faculty review committee at the request of the university?

A I believe this faculty member did go to them and I don't really know what they said, but my recollection is something about trying to work behind the scenes to adjucate it, but I think their finding couldn't support his staying on or something like that, as far as I could really recall it.

Q Now, earlier in your testimony you made reference to certain guidelines, did you not?

A I think I mentioned that they were—yes.

Q Are these guidelines for the creation and work [3567] of the committee on academic appointments?

A That sounds familiar, yes.

Q And do these guidelines touch upon procedures to be applied with respect to hiring, promotion, tenure?

A Yes.

Q Non-renewal?

A Yes.

MR. KRAMER: Mark this Employer's Exhibit 138 for identification.

• • • •

Q Dean Green, I show you a document marked as Employer's Exhibit 138 for identification under the heading "Wurzweiler School of Social Work, Yeshiva University," entitled "Guidelines for the creation and work of the committee on academic appointments."

Are these guidelines to which you have just referred?

A Yes.

Q Are you familiar with this document?

A Pretty much, yes.

I have been reading it a number of times.

Q Would you tell us the genesis of this document?

A I think it started when Dr. Rosenthal said to the faculty in those areas where you don't—where you will not legislate, I will act.

[3568] In other words, wherever faculty had not made any rule or policy or recommendation or whatever, he would feel free to do it his way.

Q And in the other areas?

A Excuse me.

Q In the other areas where they had legislated?

A Then he would be guided by them.

Q Go ahead.

A So at the very same time I don't remember this too well, because when I came on this committee—the—let me just think a minute—there seemed to be a sense of pressure on the personnel committee that they ought to do something because a number of people were in the works towards tenure or at least had to be somewhat notified about a year in advance or something like that and so this committee was talking about, let's get something going so that when these people appear, or come up for this question, we will have some rules.

So they worked very hard and came up with this document in that direction.

Q About when was this document promulgated?

A Somewhere around when the semester ended, I think it was—I know it has the date May 30th, but it is somewhere around a week later or thereabouts in our spring faculty planning sessions.

[3569] Q Now, who promulgated and developed this document?

A Personnel committee made up of faculty. I think there were three or four faculty besides myself.

Q Now, has this set of guidelines been presented to the faculty for approval?

A It has, twice.

Q When was the first time?

A At the time—somewhere on or about this date.

Q Will you tell us what portion if any of this document was approved by the faculty at that time?

A Well, at that time the document in principle by consensus that this was the direction in which the group would like to move, was voted without necessarily adopting it as a working document, and a provision was put in that a reaction from the dean—you know, on this would be—should be reported before the final action is taken.

Of course, our dean passed away the following July, and so—in September or October the faculty asked me if

I would act as acting dean and respond to it, and I held back.

Q This is '74?

A Yes, this is in the fall of '74.

Q Continue.

A I held back because I felt as acting dean I really shouldn't get too—too involved as a dean, so to speak, [3570] but rather, to act as a dean—to be an acting dean, but now that we have in the last month or so, the urgency of preparing to hire people, to start looking for people is such that I finally said I would respond to the cabinet's suggestion that it ought to come up at the next faculty meeting and I brought it up on I think a week ago this last Tuesday.

Q Would you tell us as best you can recall what transpired at that faculty meeting with respect to these guidelines?

A Well, I said that as far as I could see I knew that it was a little tight on the dean's—a collar on the dean in a certain sense, I said that I would want two or three suggestions—two suggestions and one objection recorded for their discussion.

And the one suggestion was that that sentence on page 4, under no. 6, procedures for reappointment for purpose of tenure, I had said that tenure shall be granted when reappointment to the eighth year is made and I recommended that a sentence—had the sentence unless otherwise arranged, meaning a person could be hired for an eight-year or a ninth year, without having tenure.

Q In other words,—

A I was instructed that the university does not have a [3571] kind of thing.

I asked that the—I asked the faculty if they wanted to consider including that sentence.

Then the thing that hung the faculty up—

Q What was the faculty's response on that area or that suggestion?

A They didn't like it.

They thought this was—I don't know how to put it—it seemed too threatening in the sense that this is formalizing something that is in a sense the oral law rather than the written law.

Tha's all I can say.

Q And would you continue?

A Yes.

Then in the next paragraph under the same number 6, there is a little phrase called, whether financed initially by grant or university funds, and I said, I had to object to the phrase, whether financed initially by grant, because that would be collusion with faculty in our position to faculty handbook of university policy on grant appointments.

Q Would you tell us in lay terms what the university policy would be?

A Well, as an administrative officer of the university I couldn't agree to an idea.

[3572] Q What was that idea?

A The idea was to—I thought it makes this document a kind of social action document, to violate the university policy.

Q Which is what?

A Which is that grant people don't accrue time towards tenure while on grants.

Q In other words—

A As far as I understood the policy.

Q In other words, that people who are on so-called soft money for their entire support don't accrue time towards tenure while on soft money?

A That is my understanding of the policy.

Q All right.

This document as currently constituted on page 6 would be contrary to that policy?

A On page 4.

Q On page 4?

A Yes.

Second sentence from the bottom.

Q Would you, at the risk of lengthening an already lengthy record, read that sentence?

A The phrase is—

Q Read the whole sentence.

A For faculty members with full-time instructional [3573] tenures while fulfilling in full such assignments on full time basis, whether financed initially by grant or university funds, shall be equally credited in considering eligibility for tenure.

Q All right.

This was the sentence you disagreed with?

A Only the phrase, when financed—whether financed initially by grant.

Q What was the disposition of this objection of yours?

A The disposition was that for some reason the faculty couldn't move, and it took a motion by another faculty member that the only way to get off and do something about this was to adopt the introduction on 1, 2 and 3 of this document.

Q When you say the introduction on 1, 2 and 3, which paragraphs and pages are you talking about?

A The first page, which has the introduction, consisting of two paragraphs.

And then No. 1, which is the third paragraph and on page 2, you have the heading, 2, election of the committee, and 3, review of the committee's work.

Q It is a fact then that outside of those two pages and the second page is only paragraphs 2 and 3 on that page, the remainder of the document has not been adopted by [3574] the faculty?

A That's right.

They didn't act on it.

Q But action is pending?

A Well, the—I don't know whether it is in the motion or in part of the discussion.

The suggestion was made that once a committee was elected and that will take place this coming Tuesday, this committee would then look at the rest of the document and decide whether it is the kind of guidelines that it wants to be guided by and it may make recommendations to the faculty.

Q Putting aside the one suggestion and the one objection that you had to this document—

MR. SCHECTMAN: I think the witness testified to two suggestions.

THE WITNESS: Yes.

The other one was on page 11.

MR. KRAMER: Fine.

Q Will you tell us about that, I'm sorry, Dean Green?

A I guess you will see a sentence just before the word "settlement, the dean shall communicate the views of the faculty together with his own views to the president," and I had suggested to the faculty that I [3575] would be more comfortable as the acting dean—if these were accepted, that there be a charge perhaps that the dean shall communicate his views—his own views to the president and the faculty be permitted to address its own views directly to the president, on the grounds that I thought that the faculty had the—was the kind of group that could—could do it rather than as a conduit.

That was just a feeling I expressed to them.

Q Dean Green, putting aside the one objection that you had with respect to this document, which is based on university handbook and deals with the question of crediting grant time for tenure, putting that aside, does the faculty have the authority to promulgate this document as written should it choose to do so?

A I believe it does, yes.

Q And it would be effective and binding upon you, I take it?

A Yes.

Q All right.

A There is precedence for that.

Q There is precedence for that?

A Yes.

Q Would you tell us what the precedent is, Dean?

A Well, a discussion of a recommendation I was going [3576] to make on tenure to Dr. Fischman, a vice president of academic affairs was returned to me with—with a request that faculty take action on this before he even sees it again.

This was in a sense my support of a request for tenure and he felt that the way the school was operating in

terms of those old rules and promotions, et cetera, that I ought to present it, to the faculty first.

Q Now, Dean, let's turn to such old world coordination as may exist in the research area.

Is there any over-all coordination of courses in the research area?

A In a sense—yes, you know, as I mentioned once before this morning, the research teachers—let me start differently, if I may:

Dr. Sachs, who in a sense was the primary research person in the university—in our school, came to me in the fall or maybe it was in the spring, I am not sure, and he told me that Dr. Rosenthal had made a pledge to him that he would have a lighter load which meant two courses instead of three in order to act as a kind of coordinator to convene research people to discuss and to kind of commonize—I don't know if that is the word—bring everyone in the research sequence group [3577] into some more harmony around the idea of research out of one's practice, because a person—previous to that we had Sue Maizel and Dr. Hogtogs, people who came from this more formal school of research.

In order to help with that a regular full-time faculty who never taught research before was being supervised or monitored by Dr. Sacks, so that she could become more proficient in teaching research so he needed the time for that and also to—to have meetings with all four or five people to, you know, to bring this quality or direction of the research group up there to the best level he could.

Q Now, you said that Dr. Sachs supervised or monitored a new faculty member in the research area.

By the way, who is that faculty member?

A It is a full-time faculty member.

Q What is his or her name?

A Dr. Celia Weissman.

Q Now, Dr. Sachs monitored or supervised Professor Weissman, I gather he is still doing that at this time, is that right?

A If she wants it.

It was the kind of way of giving her the help and support so that she would take in something she had really never done before.

[3578] Q Is she on a year to year contract with you?

A She is a tenured faculty member.

Q I see.

Now, has Dr. Sachs a reduced load?

A Yes.

Q What role does Dr. Sachs play in the hiring of part-time faculty members?

A Well, an example there, the only thing I could say is that when—last year Dr. Bacon was planning to hire a sociologist who could teach research in the college.

He submitted the name of this person to me to give to Dr. Sachs, to see whether the—he would arrange an interview to determine whether this fellow would be suitable for us as a research teacher.

Q Did he interview him?

A I don't remember.

I think the thing fell apart in the negotiations with Dr. Bacon and the fellow from Columbia or wherever.

Q Does Dr. Sachs have authority effectively to recommend the hiring of part-time faculty members in his specialty area to you?

A Well, I would give it a lot of respect.

* * * *

[3583] Q Now, during the course of your testimony, you made reference to a hiring situation wherein you sought to have the particular candidate interviewed by a committee of women faculty members.

[3584] Do you recall that?

A Yes, to have lunch together.

Q To have lunch together?

A Yes.

Q And the faculty as I recall your testimony voted not to allow that to transpire?

A Yes.

Q Now, what happened to that prospective applicant? You told us she wasn't hired. I know that.

How did this come about? What were the circumstances that led to her not being hired beyond what you told us?

A Well, it became academic, because when I reopened my offer to her, she had already begun to—she had already made a visit down to the University of Virginia.

She had already been talking about how she is going to rent her house—I think she lives in Chester, or—in Chester, Pennsylvania, so really she had begun to move, you know, away from us, rather than—so it was—it became obvious that I couldn't really expect her to come on even though she couldn't say no.

She never did call back.

* * * *

CROSS EXAMINATION

* * * *

[3598] Q If any members of your full-time faculty were to seek or obtain employment outside of the university would they need your expressed consent and approval?

A They would need to get the approval of president Belkin.

Q Is that pursuant to university policy?

A Yes.

* * * *

[3599] Q Is there a welfare committee?

A Not a—what one might call a school committee.

[3600] It's a committee organized by the faculty, so-called, outside the bounds of the business of the school.

Q What is the business of that committee?

A The business of that committee apparently after sitting in on and negotiating, seems to be the economic welfare of the faculty.

* * * *

[3602] Q You indicated that you sat in on a negotiating session with this committee?

A Yes.

Q Were you a member of the committee?

A Which committee?

Q The Welfare committee.

A No.

Q And who are the members of that committee?

A The members are composed of I think everybody but the dean and the assistant dean.

HEARING OFFICER: Everybody, you mean the faculty?

THE WITNESS: Anyone the faculty wants to make a member but they rule out the dean and assistant dean. They are not invited to these meetings.

Q At the meeting you attended—strike that.

You were referred to the faculty, you are referring to the full-time faculty?

A Yes.

As far as I know, it is only full-time faculty.

Q At the meeting you attended was the entire full-time faculty present or were there any—only repre-[3603] sentatives present?

A No, there was like executive committee.

Q Would you tell us who comprise the executive committee?

A The group that met with Dr. Sokal and myself and Dr. Rabinowitz composed of Professor Wilson, Feiner, Levit, Sacks and at one period Goldstein.

Q Was three a chairman of the executive board of the welfare committee presiding on their behalf or denoted at such at that meeting?

A No.

I would say the initiative was taken by people who I don't know as chairman or as part of the executive—that is leadership by appointment or otherwise by the faculty.

Q And the Dr. Sokal to whom you referred is the vice president for business affairs?

A —Yes.

Q In what capacity was Dean Rabinowitz there?

A I think he is—he was there as a member of the budget committee of the university.

Q Was the purpose of that meeting to negotiate salary increases for the faculty at the Wurzweiler School?

A Well, it was at the time when the faculty presented their—what they would like the university to give them [3604] for the coming year.

Q And was there settlement reached at that meeting?
A There—
MR. KRAMER: At this point I am going to object, Mr. Hearing Officer.

* * * *

[3606] Certainly the question of managerial-supervisory status does not make this type of discussion relevant or material.

Quite obviously—we said this time and time again, employees of the university to be managerial employees do not need to manage everything, nor do they need to be managerial employees all the time.

The question is whether they have a managerial function.

Obviously managerial employees like other employees, they have a method of establishing their compensation.

It makes them no less managerial employees to the extent that they manage the university, nor do they have to manage everything at the university.

They just have to be managerial employees.

Obviously there are thing that the university does—that the faculty does not manage and we have made no bones about that being a fact.

We said it in the opening statement here and that is still our position.

The same thing with respect to supervisory status, they don't have to be supervisors all of the time.

[3607] They supervise in this unit, they are supervisors outside of the Act, no matter how their compensation is established.

It would be irrelevant to their supervisory status that their compensation may or may not be established in the fashion suggested.

Beyond that there is no dispute by the university that there is a welfare committee and this committee plays a role in the establishment of the compensation of the full-time faculty at the Wurzweiler School but this does not make the employees non-supervisory or non-managerial in any way.

It simply is irrelevant to the ultimate determination of this type of an issue and is redundant beyond words because we have had testimony that compensation in certain of the schools is established in the fashion that it's been established in—in essentially here, not all of the schools but in a significant number of them.

What went on at a particular meeting therefore really doesn't have any purpose in this proceeding.

* * * *

[3609] HEARING OFFICER: My ruling is it is relevant.
MR. KRAMER: Fine.
We except to that ruling.
HEARING OFFICER: Go ahead.
Q Was there a settlement reached at that meeting?
A Yes.
Q That settlement was consented to by the welfare committee, the representatives of the welfare committee at the present?
A They were to take it back to discuss with faculty.
Q There was consent on your part, Dean Rabinowitz' part and Dr. Sokal's part?
A There was consent on Dr. Sokal's and Dean Rabinowitz' part.
[3610] Q And your position?
A I was really not an active party to those negotiations.
Q Were you there as a representative of the welfare committee?
A I was there acting as acting dean of the school.
Q And on that basis of that settlement was there any increase in salary granted to part-time faculty members?
A No, sir.
Q Was there an increase in the salaries of full-time agreed upon?
A Yes.
Q And can you tell us the minimum range now for those members of your full-time faculty who are assistant professors?
A You mean the minimum salary?

Q That's correct.
A According to the scale?
Q Yes, sir.
A To the best of my knowledge it starts at $15,000 and goes six steps up, something like that.
Q To approximately what sum?
A 21, I think is the highest for assistant.
Q And for associate professor?
[3611] A Associate I think begins somewhere around 18 and goes again six steps.
Q To approximately what?
A Approximately 24.
Q And for full professors?
A I think full professors—I think full professors is somewhere around 21 to 27, something of that nature.
I am not exact but it is in that range.
Q And those rates are in effect for this current academic year?
A I can only say that the agreement arrived at was arrived at without reference to the scale.
Q It was across the board increase?
A Yes, sir.
Q So would that increase be in addition to the scales you referred to?
A Wherever people were on the scale at that time.
Q How much was the across-the-board increase for this year?
A $2,000.
Q So that if an assistant professor had been employed at $15,000 his or her salary would this year become $17,000?
A If he had completed one year of service.
[3612] Q And was there an increase agreed upon for the coming academic year of 1974-75?
A Yes.
Q That was across the increase also?
A Across the board.
All full-time faculty to be $1,000 in the near year and I think the three people who had been hired this year would bet $1,500.

Q And—
A Yes, because they didn't get the $2,000 this year.

* * * *

[3613] Q With regard to some of the subjects you referred to that were discussed in the faculty meetings, you mentioned one of the subjects was enlarging the school, did you not?
A Increasing the number of incoming students—the size of the incoming class.
Q And that increase was in fact effected?
A Yes.
Q And in finally effecting that policy did you or any other members of the Wurzweiler School consult with any members of the university administration?
A I don't know of any consultation. I think—I don't know of any consultation with anyone besides the faculty making the decision.
Q Was approval obtained from any other administration sources?
A No, no. I know that—
Q You began a sentence—
A Anything that brings income into the school is affirmed.
Q And for instance did Dr. Sokal affirm this plan?
A Well, they were pleased with it but since it was a faculty decision they had no—they said nothing about it [3614] one way or the other.
Q Except they were pleased with it?
A Yes.
MR. KRAMER: The witness has testified that they were pleased with it.
THE WITNESS: Yes.
MR. KRAMER: But also that it didn't require approval and they didn't approve it.

* * * *

[3617] Q Dean Green, do you prepare a budget for your school?
A Yes.
Q And what are the major categories included in that budget?

A Faculty salary, income, possibilities of either from tuition or other sources. I think those weigh rather heavily.

Q Are there other items such as supplies?

A Yes.

There is travel and—but they don't have the same weight as where the money comes in or where the money goes out.

Q And is it your sole responsibility at the [3618] School to formulate this budget?

A Well, I do it in conjunction with Dr. Sokal.

Q Dr. Sokal is the vice president for financial affairs?

A Yes.

Q And he reviews your itemization of the various figures in the budget?

A Yes.

We discuss them.

Q And that would include projected income from enrollment and other sources?

A He would ask me what my anticipated class sizes would be and what the income might be.

Q When do you prepare a budget for an academic year?

A I'm not certain because I really haven't done more than a half—coming in the middle.

Q Do you know what the past practice has been?

A It should begin sometime in the spring. Sometime around now.

Q And at that time you make projections to which you referred?

A Yes.

Q And they are discussed with vice president Sokal?

A Actually they might be discussed with the vice president of academic affairs.

[3619] Q And will they at times recommend or mandate some changes in your projected budget?

A They have made suggestions and they have as I understood it, they set a bottom line to it.

Kind of deficit the school can accrue.

Q And then the budget is determined according to certain standards or limits which have been established by vice president Sokal and/or Fischman?

(continued on next page)

[3620] A I guess so, I haven't gone through the process wholly. My first real time was when Dr. Rosenthal came out of the hospital and then came to a budget meeting, I sat in with him and I eventually done it on my own budget but that's the interest I had.

* * * *

[3622] Q (By Mr. Shectman) In your testimony you made reference to your faculty considering an increase in tuition, did it not?

A Yes.

MR. KRAMER: Could I hear the read back, that question?

(Record read.)

Q And do you know who initiated the issue as to a possible tuition increase?

A Yes.

Q Who was that?

A Dr. Rosenthal.

Q Doctor Rosenthal is the former dean?

A Yes. He was at that time the dean. That's not—

Q You were his assistant at that time?

A Yes.

Q Do you know whether—do you have any personal knowledge of what that issue—whether that issue was initiated in response to any budget structures set by Dr. Sokal or the—or other university administrative officials?

A I really don't know. It was something he mentioned as a course, but I don't know who started the—whether it was his initiative or anybody elses.

* * * *

[3633] Q You referred in your direct testimony Dean to the use of the Queens Educational Center or was it Medical Center?

A Queens Educational Center.

Q And that was used in connection with the Wurzweiler field construction program?
A Yes.
Q Does the faculty of—approve of all agents involved in the field instruction program?
A No.
Q And by what process are those agents chosen?
A Agents sometimes usually call us and express an interest in this process. Then the dean or a representative, in this case the field instruction course—coordinator, would go out and discuss our standards, requirements and so on, bring back a report, and discuss it with the field construction committee at the—and then they might act after just informing me or just—discussing with me—it has these variations.
Q On occasion has it been you would—who would has interested—has expressed those agents?
A I was going to some agents, yes.
Q And made recommendations that they be accepted?
A Yes.
Q And those recommendations have been implemented, have they not?
[3633A] A Yes.
Q And in fact you receive most of the inquiries?
A No, sometimes they come through faculty members who are known to the community.
Q And those would be passed on to you?
A Generally to the field construction committee?
Q And he will consult with you?
A And then we have meetings every so often to discuss the status of the ongoing agents and what the future looks like, etc., and we will—
Q Who is, "we," I am sorry. The field instruction—field construction coordinator or the committee?
[3634] Q You referred to Mr. Lloyd Setleis, as the Chairman of the Doctoral Committee?
A Yes, that's what he is referred to as.
Q Is that an informal title?
A We don't have chairman of anything in a sense, and we struggle always with titles as to how to—so that we call him chairman when—which comes out of the old

days when there was a chairman of a committee to set up the doctoral program but now he's more in a sense a convenor a coordinator of the doctoral program.
Q And he will meet from time to time with that committee?
A Yes.
Q And how often does that committee meet?
A At least once a month.
Q And approximately how long are those meetings?
A About two hours.
Q And does any secretary attend that meeting?
A To my knowledge, we have not had any, although Dr. Setleis has wanted to bring—to bring—his secretary in and he did at one time, when I was present at a meeting.
Q But that was only at one time?
A When I was present.
Q And she was a passive observer?
A No, she took minutes.
Q And you indicated that Professor Setleis has a full work load, does he not?
[3635] A Yes.
Q I mean a full teaching work load, and that includes student vices, does it not?
A Yes.
Q Does he serve on any dissertation committees?
A Yes.
Q And how many hours a week is that secretary employed?
A The one that works with Dr. Setleis?
Q Yes.
A Less than 19 hours.
Q Less than 10 hours a week?
A Yes.
Q A good deal of that time she is typing papers?
A She is primarily doing work that he wants her to do.
Q A good deal of that work is typing is it not?
A Typing, some dictation, yes.
Q And did he hire that secretary?
A He interviewed her at my request.

I put a call out looking for a secretary and when this lady came forward and I met with her and then I had my—many interviews with her and he thought he would like to have her.

Q Did you make a judgment that she was satisfactory before you referred her to him?

[3636] A According to my standards she would have been satisfactory to me.

Q Was it then your desire to see if it was his opinion that he could work with her?

A Yes.

Q And during the 19 hours or less a week that she works is she constantly in the presence of Professor Setleis?

A Part of the time she is located near his office in an adjoining room.

Q And Professor Setleis is in another room, am I correct, most of the time?

A Yes.

Q And is it possible that Professor Setleis would be teaching while she were working?

A Yes. Yes.

Q You indicated when you testified with regard to the community social work committee that they were involved with a grant from the Jewish Federation?

A Well, they're not really involved with the grant. The grant was made to the school, and this committee meets from time to time with the Federation Committee to discuss how the program is going.

They have nothing to do with the grant.

Q And that grant was settled with university officials?

[3637] A I think it was settled with the approval of the university.

Q You also testified as to the Atran Lecture Service Committee?

A Yes.

Q That's made up of one faculty member?

A To the best of my knowledge.

Q Approximately how many students?

A I know only one active student that keeps—she was present at the—as the president of the student council so she was always on my back about it.

Q There are other students on that committee?

A I know she tries to get students committees made up of more than one person but I never bothered to check whether Miss Ossebell was working with other people besides Professor Feiner.

Q Does Professor Feiner and that woman and possibly other students meet together to decide or reach—or to reach a consensus among them as to a possible speakers for this lecture service?

A Yes, they do.

Q You indicated that for the hiring of full-time faculty that that the applicant first comes to you or your attention?

A That's the practice, yes.

[3638] Q And then you refer that applicant to the Ad-Hoc Committee for consideration?

A To Ad-Hoc Faculty Selection Committee.

Q Do you screen these applicants before you refer them? Or do you refer each and every applicant?

A Oh, no. No. There's a screening.

Q And that screening is done by you, is it not?

A It has been.

Q And that is a first level screening, is it not?

A Yes.

Q You indicated that generally the Ad-Hoc Committee decisions were complied with after you had referred an applicant to the committee, am I correct?

MR. KRAMER: He didn't say an applicant, he said applicants, plural.

MR. SCHECTMAN: I am referring—I am speaking generally.

MR. KRAMER: No, you are characterizing his testimony. You are not speaking generally.

MR. SCHECTMAN: Make the reference to applicant plural please.

A Whenever and Ad-Hoc Faculty Selection Committee has made a recommendation to the dean it has been accepted.

Q That's only subsequent however to the dean's referral of any applicant?
[3639] A Yes.
Q And that committee does not pass on salary or range, am I correct?
A No, it hasn't. That's negotiated.
Q Between you and the applicant?
A Between the dean and the applicant.
Q You indicated that the continuation of employment of a faculty member to an eight year of service entitles that faculty member to tenure, did you not?
A Yes, that's the faculty handbook rule.
Q That's pursuant to university policy?
A Yes.
Q And is it required that such a person receive a formal notice or letter of tenure?
A I am under the impression that if a person is rehired so to speak for the eighth year, that that automatically gives him tenure, or without a letter.
Q And in past practice this has been the decision of the dean to extend employment to the eighth year, has it not?
A Yes.
Q Now, you indicated that Employer's Exhibit 138, the guidelines for the creation of work of the committee on academic appointments was promulgated by the personnel committee, am I correct?
A Yes.
[3640] Q You were a member of that committee were you not?
A Yes, I sat in on it, yes.
Q And did you contribute ideas?
A Contributed ideas, yes.
Q And recommendations?
A Discussion of recommendations.
Q And opinions?
A Opinions.
Q So accordingly you had some input into the preparation of these guide lines, did you not?
A To some extent, yes.

Q And they were revised by the faculty you indicated in June of 1974?
MR. KRAMER: I think—
MR. SCHECTMAN: He indicated shortly after May 30, 1974.
THE WITNESS: No, this document that you have before you was presented right after this May 30th date.
MR. SCHECTMAN: I see.
THE WITNESS: And consensus was arrived at that this is a good way to go.

BY MR. SCHECTMAN:

Q But as of this date through paragraph three on page two?
A Had been formally approved.
[3641] Q Thank you.
Is it not true that the policies set forth in this document will be governed by any university policy in connection with any matters raised herein?
A Oh, yes, it says so somewhere, that nothing in this statement can supercede the university regulation.
Q And that would be or that would include the faculty handbook, would it not?
A Well, the faculty handbook is the university handbook.
Q And those were the university regulations, are they not?
A Yes.
Q And the Wurzweiler faculty comes under those university regulations?
A Oh, yes.
Q And is it not the president of the university who has the ultimate authority to act on issues of hiring promotion and tenure?
A Yes.

* * * *

[REDIRECT EXAMINATION]

[3642] Q Dean Green, you told Mr. Schectman on cross that you participate in the personnel committee meetings that led to the preparation of Employer's Exhibit 138, is that correct?
A 138?

Q The guide lines?
A Oh, yes. I am sorry. Yes.
Q And others participated as well?
A Why there are three or four others.
Q You contributed ideas and recommendations?
A I think I did.
Q Did the others contribute ideas and recommendations too?
[3643] A Yes.
Q Now, with respect to the Ad-Hoc Committees on hiring that you testified to, do you submit several applicants to these Ad-Hoc Committees—in other words, or do you submit one applicant for a particular job?
A Well, I can tell you what we are doing now because that's the only real time I have—
Q Tell us.
A When the cabinet discussed the need for additional personnel, they suggested and I agreed that the Ad-Hoc Committee made up of two cabinets—cabinet members in the case work concentration should look through my whole folder of people who have written in response to a call we made to the counsel saying we would like a job with you and they were suppose to do a screening, and in preparation for this committee on academic appointments they would get whatever recommendations these two people will make and they will make up their own mind.
Q Now, just focus on my question for a moment.
A Sorry.
Q Does the Ad-Hoc Committee select from several applicants or just from one applicant for a position?
A Well, what I am describing now is from several.
Q And in the past?
[3644] A In the past it's—I know of one instance from several.
I know of one instance that I was only related to one person where there had to be a choice made between two people at one time and the other there was one person very desirable.

Q Prior to your deanship did these Ad-Hoc Committees function?
A Yes.
Q Did they select from several people for a particular operation for one person?
A The one example is from the time of Dr. Dicker to deans form me so to speak.
Q How many people have been hired, Dean Green, for full-time appointments during the last five years?
A There were three that began in—began this year. May I look at this?
Q Were they grant people or new people?
A Well, two of them were grant and one was on full salary.
Q Were they—were they screened by Ad-Hoc Committees?
A Oh, yes, they sure were.
Q Were there other applicants for their position, that's what I am asking you?
A Yes.
[3645] We had a folder, this thing, (indicating).
Q Did the Ad-Hoc Committee go through this folder this thing and decide who would be interviewed and which ones should be selected?
A They looked at a number of them, I don't know whether they went through all of them, it was available.
Q Is that the same procedure that's been applied in prior years?
A Well, Dr. Dicker, in prior years as I recall, generally got recommendations of people and would call in—call them in one at a time and then expose them to faculty in the way I described, and then he would try to get a recommendation.
Q I am—
A I am sorry.
Q I am a bit unclear.
A Yes.
Q You hired three people for the '74?
A '75.
Q School year?
A Right.

Q For each of those positions was there a screening by the Ad-Hoc—an Ad-Hoc Committee?

A You mean did they interview the applicant?

Q The applicant—did they interview multiple applicants for each position?

[3646] A I would say that—may I use names of faculty?

Q Go ahead.

A That Dr. Chartock and this lady who went to Virginia were in a sense two contenders if we hired the lady he wouldn't be working today, no matter how desirable he was.

So I know there were these two possibilities.

Q Right.

A Levitz I know came through—let me think a minute—a strong recommendation by a number of faculty people but I don't know how many other they screened out.

Q All right.

A And Levy I know was also out of a number of different recommendations. That's all I can remember.

Q Which is the one in which you referred to a file something?

A That—it was around—wait a minute. It had to do with those last two appointments, Levy and Levitts.

Q And who screened the file something?

A The Ad-Hoc Committee.

Q They made a recommendation to you in each instance?

A Yes.

Q And you accepted that recommendation?

A Yes.

I just want to make sure—I don't know how many [3647] recommendations—how many applicants they recommended. I think they may have pinpointed either one —you know, one or both, that's all I am trying—that's why I am so hazy at the moment.

Q Now, with respect to the field instruction, you commented on cross examination in response to a question from Mr. Schectman that you made—you yourself

made recommendations concerning certain field agents to be utilized by the school.

To whom do you make those recommendations?

A To whom do I make those recommendations?

Q Right.

A Usually to the—well, the—to the faculty—the field instruction coordinator.

Q And does he take them up with the file instruction committee?

A Usually.

Q And is that committee of authority in most instances to make a determination as to whether the agents will be taken on?

A He shares the authority with them and I share it with—with those two parties.

Q And is that why the faculty itself is a—as a whole does not make this decision in most cases?

A It's a delegated responsibility.

[3648] Q Now, you told us that Professor Setleis interviewed his new part-time secretary?

A Yes.

Q Is that correct?

A Yes.

Q You interviewed her too, is that right?

A Yes, I had to find out if she was interested and under what conditions she would want to work and did she have any experience and so on.

Q If Setleis didn't want her would he—she have been hired?

A No.

Q You would not have taken her on?

A I couldn't.

Q Would it be fair to say that he had the effective veto over whether she would be hired?

A I would say that's true, because it was in, all right, yes.

Q How long did Professor Setleis take interviewing the new secretary?

A I don't know.

Q Do you remember the day it took place?

A I could refer to the records of when she was hired.

Q But you don't have any independent recollection in [3649] this area, do you?

A No.

Q As to when it took place or how long?

A I don't.

Q Now, you told us that you didn't think that—you said you didn't think that Mrs. Lentschner hired her secretary, Mrs. Ruderman, is that correct?

A Yes, I don't know.

Q Is that you don't think that she did or you don't know whether she did?

A I don't know because she has been doing this for quite a few years and I was never really in a position of caring so to speak.

Q So if your testimony on cross is that you don't think that she did, you would want that testimony corrected, is that correct?

A I would say that I have no knowledge as to whether she did or didn't.

Q Now, assuming Mrs. Ruderman lest the employ of the institution, would Mrs. Lentschner have the same effective veto power of hiring a new secretary that Professor Setleis has?

A I would say, yes.

Q In other words, you wouldn't take someone on for that position that she wouldn't want?

[3650] A Not without her approval.

* * * *

[3657] Q (By Mr. Kramer) Now, Dr. Green, to your knowledge while a faculty member or while an acting dean or assistant dean has the president of the institution every discussed—ever disapproved the hiring of a particular faculty member?

A I know of no such instance.

Q Has the vice president of academic—for academic affairs ever disapproved the hiring of a particular faculty member?

A In our school I know of no such instance.

Q To your knowledge Dean Green during that same period of time has either the president of the institution or the vice president for academic affairs ever directed

or for that matter effectively recommended the hiring of someone in your school that your faculty didn't want to hire or chose not to hire?

A No. No such case.

* * * *

[RECROSS EXAMINATION]

[3660] Q And have you obtained authorization to replace him with another full-time faculty member?

A No.

Q And is authorization required?

A I would say yes.

Q And from whom do you obtain that authorization?

A From the president's office.

* * * *

[LEO LANDMAN—DIRECT EXAMINATION]

[3664] Q (By Mr. Bodner) Dr. Landman, will you tell us your position at Yeshiva University?

A I'm Secretary of the Faculty of Bernard Revel Graduate School and Associate Professor of Jewish History.

Q How long have you been Secretary of the Faculty?

A Approximately, six years.

Q Is there currently a Dean, during this current semester, at the Bernard Revel Gradulate School?

A No, there's not.

Q Now, in addition to the Bernard Revel Graduate School, is there another school that operates out of the same locale, and generally uses the same faculty as the Bernard Revel Graduate School?

A Well, there's the Harry Fischel School, but the Harry Fischel School is a summer school of the Bernard [3665] Revel Graduate School.

Q And apart from the fact that it is a summer school, is there generally a similarity of the faculty?

A It's the same faculty.

* * * *

Q (By Mr. Bodner) Dr. Landman, the questions that I will be asking you during the course of your testimony, then, will relate to both the Bernard Revel and Harry Fischel Schools, and if there are any differences or distinctions between them, would you point them out?

If not, I will assume that your answer is applicable to both.

A I will.

Q Okay.

Is it true that Mr. Joshua Fishman is currently Acting Dean of the Bernard Revel School?

A Yes, he is.

Q That is Dr. Fishman, who also serves as Vice-President for Academic Affairs?

A Correct.

Q And his Acting Deanship will cease, I would assume, as of the appointment of a new dean in the coming academic year?

[3666] A Correct.

Q That is, the subsequent academic year?

A Correct.

Q Now, you mentioned, Dr. Landman, that you hold a faculty rank as Associate Professor of Jewish History.

How long have you held that rank?

A About three years, Associate, and before that, it was Assistant Professor.

Q Have you—Are you currently teaching any courses?

A Yes.

I'm teaching two courses.

Q Those are both at the Bernard Revel School?

A At the Revel School, yes.

Q Do you teach courses at any other school of the University?

A No, I do not.

Q Now, you mentioned, Dr. Landman, that you teach two courses.

Is your status that of a full time or a part time faculty member?

A Part time faculty member.

Q You do not teach courses at any other school, so that you are not full time at any other school of the University?

[3667] A No, I'm not.

Q Or full time, on a University basis?

A No.

I'm only at the Revel School.

Q Dr. Landman, will you briefly describe for us the nature and purpose of the Bernard Revel Graduate School?

A Well, the Graduate School, Bernard Revel Graduate School, is a graduate school of Judaic.

It attempts to teach how to do research, and to enable individuals to teach on the college or graduate level, or to do research or both.

We have a variety of fields that we're interested in, Jewish philosophy, Ancient, Medieval, Modern History, Semitic language, Bible, Hebrew Literature, and so on.

Q The purpose and nature of the Harry Fischel School, would that be essentially the same?

A It's the same, except as I said before, it's a summer school.

Q You mentioned, Dr. Landman, that you hold the position of Secretary of the Faculty, even though you are a part time faculty member.

Was there ever, previously, a dean of the Revel School, who was a part time faculty member?

A Yes.

Q What was his name.?

[3668] A Dr. Sidney Hoenig.

H-O-E-N-I-G.

Q And he acted as dean, though he was a part time faculty member, even at the same time that there were full time faculty members available in the school?

A Oh, yes.

Q How recently was Dr. Hoenig dean?

A He was dean until this past year.

Q Okay.

A Until, I think it was September 1st that his deanship ended.

I'm not quite sure of the date.

* * * *

[3679] Q I show you this and ask you if this is a copy of such a list, indicating the members of the committees?

A Yes, it is.

MR. BODNER: I ask this be marked for identification as Employer's Exhibit 141.

* * * *

[3683] Whereupon,

ZEVULUN CHARLOP

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Bodner) Rabbi Charlop, would you tell us your position at Yeshiva University?

A I'm Director of the Yeshiva Program.

Q How long have you been Director of the Yeshiva Program?

A Since 1971.

Q Prior to that time, what position, if any, did you hold at Yeshiva University?

A I was an Instructor of Talmud in the James Striar School, and I was a Lecturer in American History at Yeshiva University.

Q Do you now, or did you previously, teach any courses in the Yeshiva Program?

A No.

Q Did you hold any administrative positions in any of the other schools of Yeshiva University, other than Yeshiva Program?

In addition to your teaching responsibilities.

[3684] A No.

Q Rabbi Charlop, would you describe for us the nature and the function of the Yeshiva Program?

A The Yeshiva Program is one of three Jewish Studies Programs, which is open to students of Yeshiva College.

Its emphasis is on Talmud and Codes.

The Program meets five days a week, Sunday through Thursday, meets for about twenty hours or so, from nine in the morning to a quarter to three, which is inclusive of lunch hour.

Q You mentioned there are three Jewish Studies Programs.

A Yes.

Q What are the other two Jewish Studies Programs at Yeshiva University?

A The James Striar School and the Erna Michael College.

Q Now, the Yeshiva Program, I take it, does—

Let me ask the question.

To whom does courses at the Yeshiva Program apply?

Who are these courses offered to, students of Yeshiva Program, or students of other colleges?

A Students of Yeshiva College, and students—

There are several students who do not attend [3685] Yeshiva College.

Q And the students that are not from Yeshiva College, where are they from?

A They're usually not going to college.

Q So, is it correct that the primary emphasis is courses that are undertaken in the area of Jewish Studies for Yeshiva College students?

A Yes.

Q Are these courses, offered to Yeshiva College students, part of the required courses or curriculum of Yeshiva College?

A The required curriculum of Yeshiva College is that a student must attend one of the three Jewish Studies Programs, and he has to attend one of these three schools, and ours is one of the three schools he must attend.

* * * *

[3694] Q Will you tell us what the general length of that probationary period is?

A It's understood at the outset that the first year is probationary.

In some instances, it becomes necessary to tell the member of the faculty, new member of the faculty after a year, that we would require another year.

Perhaps, in one instance, there were three years, but that's as far as it ever went.

Q So, the probationary period has not extended beyond this two or three year period?

A Essentially, one or two years.

* * * *

[3698] Q Would you tell us what factors you take into account in determining whether a faculty member should be retained beyond his probationary period?

A His effectiveness as a teacher.

How students relate to him.

How he manages to convey the information necessary; [3699] how he inspires his students.

* * * *

[3704] Q Now, Rabbi Charlop, would you describe how decisions are made in your school on what courses are to be taught?

A We take a concensus.

I consult every member of the faculty.

The set-up at Yeshiva Program is that every year we study one of the tractates of the Talmud.

Q Would you describe for us what a tractate of the Talmud is?

A The Talmud is the body of Jewish Law called the Oral Law, which was written over a period of close to 500 years, and is originally, as it's stated, an Oral Law, that was handed down from generation to generation, until it was finally put down about a century before the common era.

[3705] It was actually put down two centuries after the Common Era, but the people mentioned, the Rabbis, Talmudic Rabbis, extend from before that time, until the beginning of the fifth century.

There are approximately sixty volumes in the Talmud, and every year, we choose to study one of these volumes.

Some volumes are much larger than others. We may decide to study the same volume over a two year period, in order to cover the material, because the material may be diverse, altogether separate and distinct.

The first part of the same Talmud as the others, is a variagated kind of work.

What we do is, we try, during the course of four years, to give the students a cross section of the Talmud, at the same time to tune him in on those particular folios or tractates, which have classically been—become of greatest concern and interest in scholarly Talmudic circles down through the ages.

So, in order to be able to do that, let's say that we have the—the Talmud is divided into six orders, sixty volumes are divided into six orders, which were originally the Mishna, and one order, for example, which is called Ziran—

[3706] MR. SHECTMAN: In all due respect to the witness, and I'm sure he can appreciate what a Talmudic tale is woven in the course of these hearings, but I question if we need belabor the record with this very interesting description of the Talmud, but might, rather, go on to the more mundane and more practical problems which the Board is concerned with.

THE WITNESS: I was hoping to reach the mundane.

I think that by the time I'm finished, which should be four or so,—

MR. SHECTMAN: Let the record reflect, it's 2:15.

THE WITNESS: We would have reached that point.

The six orders of the Talmud, which is completely relevant, let me tell you, so you have—one was to do with agriculture, one was to do with laws of men and women, one has to do with laws of purity, family purity, one has to do with the laws of the holiday, Sabbath.

Each one—They're all the same, in the sense that they follow a similar discipline, but they touch on different subjects entirely, different concepts, different principals.

There are some universal principals running through it, some distinctive principals.

Let's take this year, we had to—we had taken the Order of Moed, that has to do with the holidays—[3707] with the holidays, and with the Sabbath.

So, then, we, as a matter of course, when I say, we, the faculty, myself, anybody involved in this, knows that we'll next year let us try to find a Talmud that is not Moed, be of a different order.

I'm never quite sure what order it's going to be, because we discuss it with every member of the faculty, individually, and I begin to get a concensus.

I say, at this time, we did Moed, the concensus would be, let's do Nashim, which treats with relations of men and women, and a special tractate, divorces, marriages, things of that sort.

There are various tractates in this order.

Let's say, the concensus would be that instead of torts. We happen to be doing torts. That's in Nezkin.

Q (By Mr. Bodner) Can I just ask, at this point, Rabbi, this decision reflects the concensus of the faculty?

A Certainly.

What I'm trying to say, so we would come down to a concensus, what order we'd follow next. And then everybody of the faculty is consulted.

Sometimes we have them in twos and threes, but usually, and then, let us say, that the concensus comes [3708] to a certain order and to a certain volume, we will accept it.

I leave in, even if I have a case where ten members of the faculty say they want one—they feel one volume, one tractate for this year, and three say they want a different one, then I think part of my responsibility is to go to the other three and find the depth of their opposition, or their preference.

If I find that it's just, almost an optional thing, they would prefer to, but they'd go along with the rest, that's really what we're trying to do, we're trying to get some kind of comety.

If I find it's really deep-seated, then I look for another alternative, and see the other ten, and that has happened already, so there should be a concensus of the faculty, because the whole faculty studies the same volume.

Q By concensus, you mean with each individual's consent?

A With each individual's consent.

Q What was the decision of the faculty as to what tractate should be taught in this current academic semester?

A It was the decision to do the—to do Nezkin, which is torts, and to do Baba Kama, which is one of [3709] the essential tractates that have to do with torts.

Q Now, once the decision is made by the faculty to have this year's program in torts, how is the decision made as to what each individual faculty member should do in his teaching part of that tractate?

A Well, they all teach the same thing.

They all teach—

See, the—one of the most important parts of Talmudic learning is self-study, study on the student's—on his own, in addition to lecture.

They're very difficult, intricate points.

The community of the Yeshiva Program is—it extends beyond the hours, the circumscribed hours, in the sense, a boy wants to go over his work at night, he wants to be able to go to someone else to discuss it.

He may not be able to discuss it with people in his own class.

They may have chem laboratory at night.

Then he might be at a lower level, and he would want to get a more mature and in depth opinion here. So, he would go to a boy in a higher class and say, how did you learn it.

If each one was learning a different part, this kind of community could not exist.

Q I see.

[3710] Now, are there different ways in which the tractate in torts can be taught?

A The different styles—

There are different styles, yes.

Q Are there different aspects of the Talmudic—

A Of the same material?

Q (Continuing)—of the material that could be emphasized or de-emphasized?

A Certainly, sir.

Q The decision as to which parts are emphasized or not emphasized, is that made by the faculty member?

A Yes.

Q The decision as to which sections of the Talmudic work related to torts, will be utilized, is that also made by the individual faculty?

A No, that's made by the concensus.

Q By the concensus.

Now, in determining Talmudic courses, is it necessary to bring in teaching the Bible underlying the Talmudic works?

That is, a professor in your school required to teach Bible as part of his Talmudic course, or is that optional?

A That's entirely optional.

A student learning the Talmud, as a presupposition, [3711] assumption, that he knows the Bible, because the Oral Law, of course, is based on the—it impinges on the written law.

It's the elaboration of the written law.

The style of some of our faculty is just to stick to the Oral Law, and take the assumption that the written law, the boy will do it on his own, or he has already done it.

Now, you know, even the written law is the Bible, it's the literal laws that was given, there are many levels, and some of our faculty feel that even if it's—he's a college level, and he may have studied Bible for the last eight years, he still doesn't have the depth or the kind of perception that he ought to have for the Talmud.

So, we have some of our members of the faculty on their own, arbitrarily on their own, make certain slots during this half an hour, an hour a week, a half hour a day, whatever it may be, to teach certain parts of the Bible.

Q This decision is up to the individual faculty member?

A Yes.

He has tremendous leeway.

Q Are there any other areas of his work that you [3712] can describe for us, where this leeway also exists?

A Certainly.

The question of practical law.

Now, when we talk torts, the various parts of the Oral Law, essentially, they are conceptual.

We tach principals.

Let's say that we're reteaching this year torts, and we're talking about how, if my ox gored your ox, now, this boy is really interested about the Sabbath, can he do—can he carry something, can he do something on a Sabbath.

Now, that's not taught to him at all.

If the Rabbi feels that he must devote a member—a member of our faculty feels he must devote the entire time to, just to teaching the Oral Law, and let him get this practical law on his own, the books are available, and he feels he should be adept to do it, then he has the right to just teach his Oral Law.

If the member of the faculty feels he wants to spend an hour a week on practical law, which may have to do directly in showing, first of all, how these conceptual notions which are developed in class, torts, would deal directly to his Cadillac crashed into the teacher's Rolls Royce—we have a very well paid faculty—he could do that, or he may just teach [3713] them Jewish law, practical law, that has to do with Sabbat, or has to do with divorce, has to do with marriage.

Q This is a decision of the individual?

A Completely.

Q Are there exams given during the term of the class, by each faculty member?

A Yes.

Q And who decides what the exam will include?

A The faculty member.

Q Are there times during the normal period of Sunday to Thursday, when the faculty member would cancel the class, or change the schedule of the class to reflect his individual needs or problems?

A He can't cancel a class.

You see, again, when we're talking about this community, all classes are from nine to a quarter after twelve.

Well, let me put it this way.

The freshman and sophmore classes are Monday and Thursday—Monday and Tuesday, nine to a quarter after

twelve—Sunday and Tuesday, nine to a quarter after twelve.

Monday, Wednesday and Thursday, to a quarter to three.

[3714] The junior and senior levels are Sunday and Thursday, from nine to a quarter after twelve.

Then, Monday, Tuesday and Wednesday, from nine to a quarter to three.

That's the slot where the teacher must—that's his slot.

Normally speaking, the structure of a—as it was classically part of the tradition of Yeshiva, and we're different now because we have it ordered within a University framework, so you have to understand these distinctions, was that in the morning hours from nine to a quarter to twelve, or nine to twelve, to the lunch hour, the student was essentially on his own, either in his classroom, or in the study hall, reviewing and preparing—reviewing what he did previously, and preparing for the next lecture.

Then the lectures would be a quarter to twelve to 2:30 or so.

The professor would give a lecture. The professor is there at all times, questions are asked of him.

This is actually what we—the minimal of what we expect.

We really don't expect anything more.

Now, this is what a teacher can do, and this is what—this is not the exception to the rule.

[3715] It so happens that the exception have become the rule.

That some teachers teach an hour in the morning, and an hour in the afternoon, instead of having two hours.

They feel the two hour lecture at one shot is too much, and they feel they want to break it down.

Q This is up to the individual faculty member?

A Yes.

Some faculty members say the boys are not coming in at nine o'clock, or they feel they want to get him started in some way, each man has his own approach, and he may begin at nine o'clock, a quarter after nine to 9:30,

I'm going to teach practical law. I'm going to get everybody down there at nine o'clock.

He doesn't have to do it, we don't expect him to do it, but he can do it.

The same thing, he can do with Bible, as he told you.

Beyond that, he even has the right to do it, and there may have been some complaints from students about this.

We have never yet interfered with this right.

To mark papers, give examinations, on this optional, totally optional work, which we didn't [3716] require of him.

Q This would be reflected in the student's grade?

A This would be reflected in the student's grade.

Q This decision is also made by the individual faculty member?

A Yes.

I must say, if a faculty wanted to start teaching Playboy, I feel that I would have to step in.

This is—In the thing there.

But I don't know even if I would be able to do anything in that event; thank God it never happened.

Q But, in essence,—

A I may have to discuss it with the young man. That's all I could do.

I could discuss it with the teacher.

We never really had it. We were talking. We never really had it.

If I had it, I would have to discuss it with him.

I don't know if I could even stop that.

Q As of this point, have you ever had a situation where you have had to impose—

A Never.

Q Are there any limits then, other than what you have described in view of the concensus of the faculty, as to the tractate applicable for that year, are there [3717] any limits on the means by which the faculty member carries out his work responsibilities in the schools?

A No.

Q And your testimony has been with regard to this year's tractate—

A What do you mean by means?

I don't know what you mean by means.

Q By means, I am referring to how he goes about teaching his course.

A No.

Q Where he schedules exams at particular times, other times?

A He must—We require one exam a year. One exam a term, a semester, a final examination.

Many teachers give mid terms.

It's not required.

Q This is up to the individual faculty member?

A There are some professors that give five examinations a year. A semester.

Some—All covering just the Oral Law, and some a combination.

And the professor has—

Q Apart from that, the means by which he conducts his responsibilities, are his decision?

A Yes.

[3718] Q Would this also be true with regard to other tractates, other than the one that is taught this year?

For example, if, next year, the decision was made to teach a tractate in holidays, would the same situation be applicable?

A Certainly.

Q With regard to the right—

A Makes no difference.

Q With regard to the right of the individual faculty member?

A Makes no difference.

Q Rabbi Charlop, has there ever been a meeting of the Yeshiva Program faculty?

A No.

We have had once a meeting of the Yeshiva Program faculty, in conjunction with the RIETS faculty.

Q Were some of the issues involved in that meeting, related to the Yeshiva Program, apart from those also—

A They were only related to the Yeshiva Program.

Q I see.

Would you tell us what were the issues that were involved in that meeting?

A The students had organized an agitation to diversify Yeshiva Program.

The Yeshiva Program is only Talmud, essentially.

[3719] In fact, they had a sit-in, and it was—we had a very enjoyable time then.

And they wanted to diversify the Program, and set up from nine to ten slots, that they be able to have other subjects taught, like Bible, practical law.

It should become mandatory, an integrally part of the Program.

It was such a serious matter, we spoke to the members of the faculty individually, and then we called a meeting.

The faculty, by and large, overwhelming, I should say, I can't say unanimously, but overwhelming, was essentially impositioned to the mandatory requirement here, and to the whole idea that a Yeshiva Program ought to be diversified.

They felt it was opposed to the negotiation of what a Yeshiva Program is.

And, I mean, that's what happened at the meeting.

Q What was the decision of the faculty with regard to the Program of—

A The decision was to allow optional programs, other than the optional programs which I mentioned before, which the member of the faculty can do on his own, which is not officially set in our office, anyway.

But we have, for example, Bible classes that are [3720] given twice a week.

We have a Practical Law, although there are members of the faculty who do it on their own. Do it in different ways.

And they're entirely optional and open-ended, open to any student.

And, in that way, we avoided the mandatory feature, and it did not really become integrally part of the Program.

Q Is this essentially in keeping with the concensus or decision of the faculty, as to what should be permitted?

A Yes.

* * * *

Q (By Mr. Bodner) Are there any other areas in which decisions are made with regard to academic matters concerning the faculty, where you do or do not utilize the concensus of the faculty before you make the decision?

A No. No.

[3721] Q Because I did state the question somewhat ambiguously, by, "No," you mean the faculty is consulted with regard to the academic decisions affecting the school?

A Certainly.

Q Can you give us any other example, if you would, Rabbi Charlop, of a decision made by the faculty, with the concensus of the faculty, which affects the Yeshiva Program?

A The college program, for example, Yeshiva College program ends at the end of May, the beginning of June.

Last few years, we have extended the Yeshiva—

Usually, for many years, anyway, the Yeshiva Program ended the same time as the College program did.

We felt, members of the faculty were always complaining that they needed more time, that they would—that we ought to extend the sessions two weeks, two and a half weeks, depending upon the year, beyond the calendar, the College calendar.

And we discussed it with all the members of the faculty.

Q What was the decision of the members of the faculty?

A The faculty, they were all unanimous that it ought to be done.

[3722] Q Was this decision of the faculty implemented, carried into effect?

A Yes.

Q This has been policy of the—

A Yes.

Q (Continuing)—of the Program?

A Actually, it's experimental, because no one really knows how—

Many students live out of town, go away, and then the question is, how many do come, how much show up. What is the question of discipline in this kind of situation.

So, the faculty felt that the experiment ought to be tried.

Q Do the faculty in your school have a designation in lieu of rank, that is, generally given to them?

That is, how are they referred?

A Rosh, R-O-S-H, Yeshiva, Y-E-S-H-I-V-A.

Which means, literally, head of Yeshiva.

I think it's very interesting that we have thirteen heads of the Yeshiva, in the Yeshiva Program, because every class, in itself, is a Yeshiva assigned to itself, precisely because of the—

It's a world unto itself, to which the—where the master's master of his own home.

[3723] Q The master, in this case, being—

A The Rosh Yeshiva.

The only way you can have a master-deciple kind of relationship.

Q With each individual Yeshiva, or each individual course, does the faculty member then occupy the rank of master, or head?

A Yes.

Q Is that with regard to all the decisions affecting that class?

A Yes.

Or that group, or that world, or that Yeshiva.

* * * *

CROSS EXAMINATION

* * * *

[3742] Q Is it then true, then,—

Is it then true that there are—there is no [3743] promotional track for a man appointed as a Rosh Yeshiva?

A There is a promotional track.

Q What is that track?

A The track is going from a first year level, to a second year level, to a third year level, to a fourth year level.

Q So, each year seniority brings with it, you're saying, a promotion?

A Seniority brings promotion, yes.

Sometimes people are promoted because of—beyond seniority.

Very rarely, I won't say absolutely no, very rarely have we overlooked seniority.

* * * *

[3746] Q Do faculty get a raise each year?

A Well, since I've been here, the faculty raises have been commensurate with the raises of the rest of the University.

Q Have they been comparable or commensurate with those of Yeshiva College, particularly?

A Yes.

But—I'd say, yes.

It may not have been exactly the same, but, overall, it's yes, because we had to make a straight raise, so we computed an average, whereas an assistant professor got a certain raise, an associate professor got a certain raise, an instructor got a certain raise.

We computed an average, and gave everybody the [3747] same raise.

Q Those raises were then keyed into—

A At the same time the College got it.

Q They were keyed into the settlement reached between the Welfare Committee of the Yeshiva and Stern Colleges, and the University?

A Yes.

* * * *

[3748] You indicated that you hired Willig, Reichman and Bronspigel?

A Yes.

Q When did you hire them?

A 19—197—

In June or May of 1973, or summer of 1973.

This is their second year.

[3749] Q Can you describe that hiring process, briefly?

A Yes.

We felt that we needed new blood in the institution. There wasn't really any loss of faculty, but just as I told you, some faculty members were ineffectual.

We felt that we can't do anything to them, we just give them small classes, but we need to have effective men, it means recruitment, many things.

I may say, in digression, that the fact of the matter is now the classes are huge. They have made—

Their classes are—

Not huge in the sense of numbers, but they're very—

Q Try not to digress, Rabbi, and just answer the question, please.

A What was your question again?

Q If you can describe, briefly, the hiring process.

A I didn't mean that—

Q How these persons applied, how were they—how their merits as hiring—

A During the course of the years, various people apply for positions, and I usually tell them, there's nothing available.

Q To whom do they apply?

[3750] A To me.

I tell them, there's nothing available, or there may not be anything, or there may be something available.

Then, when the need for new blood or new men presents itself, and only presented itself once in my tenure, and that was a major transfusion.

What we did was, together with the President of the University, acting on this,—

Q Did he authorize and give you permission to fill three new faculty spots?

A Yes.

Expressly, gone through it very carefully.

Q His permission was required?

A Yes, certainly.

That's why I tell you about the whole letter procedure.

Q These persons had applied to you?

A Yes.

Let me tell you, I'm sorry, I'm not digressing at all.

I just want to tell you the process, the way a Rosh Yeshiva is chosen.

You see, a man teaching—You take a man on the faculty, in the College, it's quite conceivable nobody in the faculty of the College ever heard of that man.

[3751] I'm not talking about a graduate school, where a man has made his mark already, but is an instructor in an undergraduate college.

When we choose a new man, we look over the applicants we have.

If, among those applicants, there are young men, we hardly ever take anybody but a young man, and there's a young man who's in the—who's in the—who's well known—

What is that?

HEARING OFFICER: Okay.

Go on.

A (Continuing)—We look through the applicants.

Then we look through the community of young people, of people who have begun to talk about, that this man is going to make a good Rosh Yeshiva.

Because it's a tremendous responsibility that we impose upon him. Regardless,—

It's not reflective at all in his salary.

Because the influence of a Rosh Yeshiva in the overall community can be immense.

Q Again, I'm just asking—

A I'm telling you what happens.

Q I'm asking you for the procedures.

Who interviews, who discusses it, who makes the [3752] final decisions?

A This is something that is altogether different.

I would go to Dr. Belkin, the president of the University, and I'd tell him that I think we need new blood.

This is exactly what I did, I think we need a major transfusion. He says, how many people you think we need. I said, we need three good men to come in, two minimum, three good men. To shake up this—To shake up the whole institution, to give it new blood, new vitality.

He says, all right, do you have three men in mind. Then I said, well, I have a group of people in mind, and then we discussed, and he says, who do you have in mind. And I tell him, these are the people we have in mind, all of them, with the exception of maybe one or two, maybe I discuss ten people with him, are well known to him, because they are well known to the entire Torah community, to the entire Yeshiva community here, that these are young men who have made their mark in their early studies, are prodigious. Some through publications. This is before they're appointed.

So, through the fact that they are—they heed what we call Chaborut, small groups of students on their own, without pay, for years.

[3753] That they're members of higher institutes of Jewish learning, such as K-O-L-L-E-L, and these names are almost household names.

They may be only 23 or 25 years old, but everybody in the learning community knows who these young people are.

Then, out of this designated group, we say to ourselves; who is the best.

Q Who is we?

A Dr. Belkin, the President and myself.

Every one of these names, you have to realize, is well known to every member of the faculty, one of the considerations, most important consideration is, is it credible.

To become a member of our faculty, and I didn't want to answer your question before, but it is a prestigious institution, and it's probably the most prestigious, not in the institution, but throughout the world, of this sort, very important, very great achievement.

So, it has to be credible.

And, will it be acceptable to the faculty.

We can't take any Tom, Dick and Harry and stick him on the faculty.

That's the way it's done.

[3754] I must say that the new appointments were received with approbation. And they were discussed, in fact, as much as we could, there was some questions of

discretion, some people who were interviewed for reasons, didn't want it to be—

Q Excuse me,—

A Some people didn't want it to be known that they were being considered, in case they would not be—

Q Who conducted the interviews?

A I did.

Q And after interviewing the candidates and finding out their respective availability, did you then consult again with President Belkin?

A Yes.

Q Was it finally President Belkin who approved the choices that you had made?

A Yes.

* * * *

[LEO LANDMAN—DIRECT EXAMINATION, RESUMED]

[3762] Q (By Mr. Bodner) Dr. Landman, when we left off yesterday when you had to leave to attend a funeral we were on Employer's Exhibit 141, and I would ask you again to refer your attention to that exhibit which is the list showing the faculty members of the committees of the Revel and Fischel Schools.

Would you briefly describe for us the function of the Welfare Committee.

A The Welfare Committee discusses various problems concerning the faculty.

It meets at its own discretion.

It deals with mostly the relationships between itself and the University and the School.

Q When you say various matters concerning the faculty, do these matters include what is normally characterized as interests in salary remuneration and related conditions?

[3763] A Correct.

You have to remember that it is a very small school and very intimate school and as such the committee meets infrequently, but at its own discretion.

It really has had not that many problems, as far as I know, at least.

* * * *

Q I will not go through each of the committees because some of them are reasonably self-explanatory, but I will ask you about those that we have not had previous reference to or by virtue of summer committees in other schools.

In particular you mentioned yesterday that three of the committees can in a sense be considered as one and that is the Committee on Valuation, Degree Requirement and Ph. D Re-evaluation.

Would you tell us the functions of these three or three parts of the Committee?

A Yes.

[[3764] Well, one is a Committee that dealt actually and still is dealing with the requirements for the Ph. D.

We have recently begun to revise the requirements at least as far as the faculty is concerned.

Of course, subsequent to this it was to be presented to the Executive Council and into Albany, but at this time the faculty has already decided that the number of credits, for example, for the Ph. D. should be lowered from 90 to 75.

The structure of this new number will, of course, still be worked on.

Some of the problems have to be ironed out yet and the Committee deals with it and it is presented to the faculty.

The Committee also is concerned, at least in one of its hats, is also concerned with the fact that we have had two degree, two doctoral degrees up until a few years ago, and many of the members of the faculty still feel that a second degree, a second doctoral degree ought to be acquired by the University.

Now, what this degree should be, what kind of a degree and so forth it still being looked into by the Committee.

* * * *

[3766] Q (By Mr. Bodner) Dr. Landman, do the faculties of the Revel and the Fischel Schools meet as a body to discuss and make decisions on matters of interest to the faculty?

A Yes, they do.

Q Are there written bylaws governing such meetings?

A No, there are not.

Q Are there general minutes taken of such meetings?

A Yes, we do take minutes.

Q When was the last meeting that the faculty of the Revel and Fischel Schools, if you can recall?

A The end of January.

I don't remember the exact date.

Q I show you this for identification and I ask you [3767] if this is a copy of the minutes of the meeting of January 21, 1975 of the Revel and Fischel Graduate School?

A Correct.

These are the minutes.

MR. BODNER: I would ask that this be marked for identification as Employer's Exhibit 143.

• • • •

[3768] Q Dr. Landman, looking through the items covered on this meeting I notice Item Number 7 refers to the following, a suggestion that research seminars should be offered by departments with a comment "The setting of standards is in the hands of the faculty."

Would you tell us what was involved in terms of the setting of standards by the faculty with regard to research seminars?

A Well, the suggestion was made that research seminars should be handled but the aims of the seminars or the content of the seminars or how they are to be run, that is up to the faculty itself.

Q Does the faculty have the final decision making [3769] authority on these matters?

A Correct.

Q In addition to being true with regard to seminars is this also essentially true with regard to classes conducted by the faculty?

A The actual courses? Yes, yes.

In fact, every course has to be approved by the faculty.

Q We are going into a little more detail about that in a moment, but also with regard to these minutes I notice reference to the revised Ph. D. program with the

notation that the revision was seconded by a faculty member and "Passed by the faculty."

Would you tell us what was involved in the revised Ph.D. program.

A This I mentioned before, the fact it had decided to lower the number of credits from 90 to 75, and this passed.

There are still some additional problems that have to be discussed and the faculty will, at the recommendation of the committee, will again discuss it at its next meeting.

Q And the reference to the fact that it was passed by the faculty, is that intended to indicate that the decision making authority rests with the faculty?

A It is.

[3770] Q So has this passage by the faculty now become the policy of the School?

A It is the policy of the School.

It hasn't been approved yet by the State, but as far as the School is concerned this is what we want.

• • • •

Q (By Mr. Bodner) Dr. Landman, are there in addition to the faculty members, meetings of departments within the Revel and Fischel Schools?

A There are, but again very rare because of the small size of the school.

Many of the things are really discussed by the faculty as a whole.

Of course, the individual members of departments, [3771] whenever it concerns them or their field, they have large input and, of course their advice and suggestions are very important to the faculty.

But they do have meetings by themselves too.

• • • •

Q Dr. Landman, who is the decisional making authority within the School and the University with regard to academic matters such as curriculum requirements, degree requirements and admissions standards?

A The faculty.

• • • •

[3776] Q Are faculty members expected to spend time with students beyond their regular classroom hours in the Revel and Fischel Schools?

A They are.

Q Would you tell us, is there a minimal amount of time they are supposed to spend with students and, if so, what that is?

A Yes, at least one hour a week.

Q Is that equally applicable to full time and part time faculty?

[3777] A Yes, it is.

Q Dr. Landman, do faculty members in your School perform scholarly research functions?

A Yes, they do.

Q And do they publish articles?

A Yes, they do.

• • • •

[3791] Q Dr. Landman, leaving the subject of part timers and turning to the managerial, supervisory and related authority of the faculty, let us say, a matter of interest arises to the faculty.

How does the faculty express its views on such matters?

A At faculty meetings.

Q How are decisions made at such meetings?

Is it by vote, by consensus or some other?

A Theoretically speaking, of course it could be by vote, but again because of the very small nature of the School it is usually arrived at by consensus.

Q Where there is a clear consensus of the faculty on the matter of interest in the School is that consensus effectively regarded as the decision?

MR. SCHECTMAN: I'm going to object to these questions now in that they are overbroad and asking for conclusions and there may be many matters of interest, be it anything [3792] from the war in Viet Nam to the funding of the Universities to office space for particular faculty members.

The question in such breadth, asking for such a general conclusion I think is improper.

MR. BODNER: I did intend by one of the phrases in the question to indicate with reference to matters

affecting the school and therefore obviously excluding their decisions or their expression of views on things such as Viet Nam or the matters beyond the scope of the individual School.

But I have no objection to Dr. Landman making clear—

HEARING OFFICER: Cut it down specifically as possible.

I think you can avoid a lot of the objections.

Q (By Mr. Bodner) Dr. Landman, on the matter of example of curriculum, where there is a clear consensus of the faculty has that consensus ever been overridden by anyone in the School?

A Not to my knowledge.

Q Or by anyone in the University?

A Not in my time, no.

Q Is that consensus generally given the effect of a decision in terms of the School policies?

A Yes, it is.

[3793] Q Is the same true with respect to admissions criteria?

A Yes, it is.

Q And with respect to degree requirements, apart from the legal requirements established by law?

A Yes.

Q Has there in your six years been decisions made with regard to the introduction of new courses or the elimination of existing courses?

A Yes.

Q Could you give us an example of such a matter, describe how the decision—

A I can't remember the names of the courses, but if a professor wanted to give a course he presents this course to the faculty and the faculty then will listen to the course description and decide on the basis of need for such a course, whether it should or should not be given.

Q If the faculty decides that such a course should be permitted has it generally been permitted?

A Yes, it has.

Q If the faculty decides such a course is not needed or not be permitted is that decision also given effect?

A Yes, it has.

Maybe revised sometimes, there may be certain objections that the faculty has to a course such as [3794] overlapping or something of that nature, and if it is then revised it might be approved, or it may not be.

Q Let us turn to the individual faculty member, more specifically who determines how a class should be taught?

• • • •

A Well, it is completely in the hands of the faculty member.

Q Does the individual faculty member have discretion as to which students should be admitted into his class?

[3795] A Yes, he has.

Q Can an individual faculty member refuse to accept certain students?

A Yes, he can, for a cause.

Q But assuming he has valid reasons?

A Yes.

Q And he makes that decision?

A That's right.

Q Does the individual faculty member mostly have authority to decide within the range of classroom availability and student availability when the courses are to be offered?

A Yes, there is a form which we send out before the class schedules are made out asking each professor which courses he will give the following year and when he would prefer to give these classes, and within the framework of the School itself, and we have certain programs that are intertwined with the Undergraduate School.

If this is feasible we certainly follow what the professor wants.

Q And when the range of discretion, the decision is made by the individual faculty member?

A Yes, that is correct.

• • • •

[3797] Q Apart from those legal requirements, requirements such as classroom and student availability, does the School exercise any control over the means by which the faculty members carry out their work responsibilities?

A None.

If some complaints are made by students to us we will sit down with the professor and talk to him but, I mean, this is merely in terms of advising him of what happened and to what the complaints are but what he does about it is really up to him.

Q You mentioned that one of the criterion expectations in your School of both full and part time faculty is scholarly research.

Does the School impose any specific requirement on what scholarly research is to be done by a faculty member?

[3798] A No.

In other words, we don't determine that he has to do research in this particular area of his field, but it is up to him completely.

Q Is both the area in which he does research as well as the methodology up to the faculty member?

A Yes, it is.

Q This is true for full time and part time faculty?

A Yes, it is.

Q You also mentioned, Dr. Landman, in previous testimony that faculty members serve on various committees or serve as School representatives to various University bodies.

Does the School require the placement of faculty members on specific committees?

A Well, I don't know what you mean by require.

It is expected that a faculty member serve on committees.

Q But as to the choice of which committees or—

A That is up to the faculty.

Not every member of the faculty serves on a committee, but he is required to serve if he is asked.

Q Dr. Landman, you have chairmen in your Schools; is that correct?

A Yes, we do.

[3799] Q Would you describe the role of the chairman in the hiring of full time faculty members?

A Well, he recommends candidates, names of candidates when a position becomes available in his field.

Q In his field, generally meaning his department?

A His department, yes.

Q Where the chairman makes a recommendation is that recommendation generally given effect in your experience?

A Yes.

Q Where his recommendation is negative are you aware of any instances where a faculty member has been hired over the negative recommendation of the chairman?

A Not during my time.

Q Would you tell us if there are any differences or if the same is essentially true with the hiring of part time faculty members?

A Exactly the same.

Q With regard to the chairman's negative recommendations, has it ever been overriden with regard to a part time faculty?

A Not during my stay.

Q Let us take one of the chairman in one of the larger departments, Dr. Lewin in the Modern Jewish History Department that is listed on Exhibit 139.

Do you recall within your approximately six years [3800] at the Institution any examples of Dr. Lewin involved in the hiring of a part time faculty member and if so, can you cite such an example?

A Yes.

For example, Dr. Nussembaum was hired a few years ago.

He is a part time man.

Of course he is in American History and so Dr. Lewin and Dr. Grinstein really cooperated there.

Dr. Lindenthal, for example, was also hired a few years ago and he is in American Jewish Sociology, and

in this particular case Dr. Lewin and Dr. Goldberg cooperated.

Q Were the faculty members whose names you mentioned recommended for hiring by the chairman?

A That is correct.

Q Were these recommendations given effect?

A Yes, they are on the faculty.

Q Was the School's decision to hire significantly affected by the recommendation of the chairman?

That is, would they have been hired absent the recommendation or with the negative recommendation?

A With a negative one or without the chairman I doubt it.

Q Dr. Landman, accumulating all the time spent by [3801] chairmen, such as Dr. Lewin on an annual basis to carry out his functions with respect to the hiring or other related functions, or faculty in his department or part time faculty in his department, can you estimate the amount of time he spends in carrying out such functions with regard to part time faculty?

A Are you talking about specifically in terms of hiring of faculty?

Q Yes, can you make, can you reasonably make an accurate estimate of such time?

A I really can't because how do you estimate the time spent in recommending somebody and interviewing the individual?

I don't know how much time this would be.

Whatever it takes to do that, that is the time he spends.

Q Would it be likely the amount of time would significantly vary from one year to the next?

A Oh, I think so.

Q Is it your general experience that the amount of time so spent over part time faculty members involves more or less or approximately equal to 50 per cent of the individual's total work time if you can make such stipulation?

A Do you mean over and above what a part time faculty [3802] member spends?

Q No, if you can take the total work time of the chairman would you be able to estimate whether he spends

clearly less than 50 per cent, more than 50 per cent or approximately 50 per cent?

A I would say less than 50 per cent.

The School is a very small School and the chairmen, really have very—as chairmen they do very little in terms of time.

In other words, the recommendation of the chairman would come to the faculty and the faculty as a whole then would make certain decisions.

This is again due to the nature of the School but, of course, the recommendation of the chairman would be there and his time spent and I don't know how much it is, but certain years it is probably much less.

Q Are chairmen elected for specific periods of time?

A No.

Q For how long have the chairmen indicated on Employer's Exhibit 139 acted as chairmen, to your knowledge?

A Well, for a goodly number of years.

I don't know how many each one offhand, but I could check it out.

It's been quite a while.

[3803] Q Have any of them been there in the past six years in which you have been connected with the School as chairmen, to your knowledge?

A I think all of them, yes.

Q Do chairmen receive a stipend for their function as chairmen?

A No.

Q Do they generally receive a reduced course load?

A It is taken into consideration, yes.

Q Their chairmen functions are taken into consideration in terms of their work hours?

A Yes.

* * * *

[3804] Q Have there been instances in recent years, Dr. Landman, where the views of the chairmen on the hiring [3805] of a particular faculty member has differed from the views of the faculty in his department?

A Well, it really wouldn't happen.

The nature—as I said before, the nature of the School is such that a consensus is reached.

If it isn't reached at a meeting it is reached at rump meetings where people get together and they work together and somewhere along the line there would be a give and take and a consensus will be reached.

* * * *

CROSS EXAMINATION

* * * *

[3809] Q (By Mr. Schectman) How are promotions made for the full time faculty from one rank to another?

A Well, the Dean recommends these I believe to the President.

Q And the President sends a letter appointing them to [3810] the higher rank?

A I think that is done.

* * * *

[3824] Q Are any actions taken by your faculty with regard to academic crediting or major acamedic policies reviewable by Vice President Fishman?

A Reviewable? No.

* * * *

[3833] Q Are there not University limits on when and where classes will be conducted?

A Limits?

Q For instance, as to scheduling, calendar and so forth?

A No. There are certain needs that the University has.

As I said before, we had, for example—we have a BA-MA Program whereby undergraduate students can take courses both for the BA and for the MA so obviously because of these students certain courses must be given at certain times.

But even then there is a great amount of leeway and the individual professor's input and desires are certainly taken into consideration.

Q But the academic calendars of the University for instance would govern as to scheduling courses, would it not?

A Unless the individual professor absolutely cannot [3834] make a particular course and we have again, because of the smallness of the School, we fit down and we talk to them and find some time during that long day that we find a mutually agreed upon time.

Q And usually that would be done with the Dean?

A Well, I am usually the one who handles the course schedules and will sit down with the individual professor and we will work it out.

Q That is in your administrative capacity as secretary of the faculty?

A Correct.

Q With regard to University's holidays, for instance though, would that affect whether classes would not be offered?

A As far as I know we have never scheduled—the Registrar's Office takes care of all of the holidays and blocks these dates out so we don't schedule anything.

Q Is there not an office at the University that indicates to you what classrooms and what space is available for teaching?

A Yes, but individual professors—for example, in my own particular case I was scheduled for a certain room and I must have certain books available to me in my courses and only a particular room had those books, so I was reassigned.

[3835] Q You requested the reassignment?

A Did I request it? Yes.

Q From whom?

A From the office that assigns it.

Q What office is that?

A I think Blaizer's office.

I don't know what it is called.

Q Do you know his title?

A No, I don't know.

Q Is that the Building and Grounds Office of the University?

A I really don't know what his title is.

MR. BODNER: I think if I can clarify—

MR. SCHECTMAN: I think if we refer to the University's catalogue in evidence, I believe it is Employer's

Exhibits 22-A through E as annexed to Board's Exhibit 2, this will indicate that Mr. Jacob Blaizer is the Director of Buildings and Grounds.

Q (By Mr. Schectman) You indicated Dr. Bernstein is an invalid?

A Yes.

Q Accordingly his courses are conducted at his home?

A Yes.

Q He does not come to the University?

A That is correct.

* * * *

[3838] Q With regard to hiring faculty is it not true that President Belkin has the final say in that regard?

A I believe that is true, yes.

Q When a member of the faculty is hired you indicated that it was a consensus of the faculty as a whole that he should be hired; am I correct?

A Yes.

Q You indicated that department chairmen may recommend someone for hiring?

A That is correct.

Q May other members of your faculty as well recommend someone for hiring?

A Oh, yes.

Q Do other members of your faculty recommend persons for hiring?

A At times.

[3839] Q How many part timers were hired last year?

A Last year?

Q How many faculty, how many new faculty were hired last year?

I'm sorry, how many new faculty were hired for the current academic year?

A I can't think of any right now.

Q So that the amount of time in hiring new faculty for this year spent in the last academic year would have been negligible; am I correct?

A Correct.

Q And you have indicated that one person has been hired for the coming academic year?

A That's right.

Q Can you estimate the amount of time you spent in that process?

A Personally?

Q Yes.

A I didn't spend any except—all right, I take it back.

I was at one meeting when it was discussed at the Faculty Executive Committee.

I was also preesnt at the faculty meeting when it was discussed.

Q So that would be a total of a few hours maybe?

[3840] A Something like that.

Q Were there any department chairmen involved in this?

A Yes.

Q And spending about the same amount of time?

A I imagine so, perhaps a little more.

In this particular case again Dr. Bernstein is the Chairman of the Bible Department and the man I'm referring to is a man of the Bible Department, so that of necessity much of the leg work was done by others, but it was with the consultation of the specific chairman.

Q Would it be fair to say that a department chairmanship at the Bernard Revel School is an honorary position?

A No.

* * * *

[3844] Has Dr. Belkin ever hired any member of the faculty of Revel without the approval and recommendation of the faculty of the School, to your knowledge?

A Not during my time.

Q Where there was an individual to be hired and the faculty recommended this specific individual to Dr. Belkin, to your knowledge has Dr. Belkin ever refused to accept the recommendation of the faculty?

A Not to my knowledge.

* * * *

[3848] Whereupon,

JOSEPH GITTLER

was called as a witness by and on behalf of the Employer, having been first duly sworn, testified as follows:

HEARING OFFICER: Be seated.

Rabbi Gittler or just Dr. Gittler?

THE WITNESS: Dr. Gittler.

[3849] HEARING OFFICER: Okay.

Would you give your full name to the reporter?

THE WITNESS: Joseph B. Gittler.

HEARING OFFICER: Off the record for a moment.

(Discussion off the record.)

HEARING OFFICER: On the record.

Mr. Kramer.

DIRECT EXAMINATION

Q (By Mr. Kramer) By whom are you employed?

A Yeshiva University.

Q What is your present position, Dr. Gittler?

A Dean of the Ferkauf School and university—

Q Dean of the Ferkauf School?

A Yes.

Q Does that have a full name?

A Dean of the Ferkauf School of Humanities and Social Sciences. Ferkauf School.

MR. KRAMER: Can we go off the record?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q By Mr. Kramer) Continue.

A And university professor of sociology.

Q How long have you been dean, Dean Gittler?

A Since September 1966.

[3850] Q Are you now a member of the faculty at the Ferkauf School?

A I am a member of the university faculty.

Q Would you explain what you mean by that?
A I have a university professorship of sociology.
Q Do you specialize in any particular area?
A Yes.
Q Would you tell us what?
A Sociology, ethnic relations, social change and sociological theory.
Q When did you last teach a course at Yeshiva College—Yeshiva University?
A This last fall semester.
Q What course was that?
A Sociology of the Jews in the United States.
Q In what school was that course offered?
A It was a consortium that included the Ferkauf School and other schools in the City.
Q Just so the record is clear, Dean Gittler, that was —that course was taught in the fall of 1974?
[3851] A Yes.

* * * *

[3852] Q Okay.
I notice, Dean Gittler, the first colum of this exhibit is headed "Department."
Is your school in fact divided into departments?
A Yes.

* * * *

[3858] Q (By Mr. Kramer) On what basis, Dr. Gittler, are part-time faculty members generally hired?
A A department will have X amount of money budgeted to them for part-time faculty to teach specific courses or other responsibilities and, on the basis of departments, specific course offerings for people other than full-time faculty. They are then hired to teach these specific courses.

* * * *

[3865] Q (By Mr. Kramer) Are there bylaws or other formal documents of governance for the Ferkauf School—
A Are there bylaws or other documents? There are bylaws.

Q I show you, Dean Gittler, Petitioner's Exhibit 6, [3866] which is appended to Board Exhibit 2 in this proceeding.
Would you tell us, if you know, what that document is?
A Yes.
These are the—these are the bylaws for the Ferkauf faculty government.
Q Would you tell us, to the best of your knowledge, when this document was promulgated and by whom?
A The—prior to 1965, certainly prior to 1966. I believe prior to 1965, a faculty committee worked up and devised these bylaws for faculty government at the Ferkauf School, which committee was then—which was then submitted to the faculty—the Ferkauf faculty at that time, and either modified, but ultimately approved.
It then went to the dean, and then to the president, and approved.
Q Now—Go ahead.
A The document also includes, towards the end there, several appendices, and these appendices—these appendices—these appendices the dean included as he—as he otbained them from the faculty meeting minutes since 1965.
Q Now, turning to page 3, Dean Gittler, perhaps you may remember a few minutes ago I asked you whether you were a member of the faculty of the Ferkauf School, and you told me you were a member of the faculty of the university.
[3867] Under these bylaws, are you also a member of the faculty of the Ferkauf School?
A According to these bylaws, yes.
Q Now, are part-time faculty members members of the faculty for purposes of these bylaws?
A An associate members.
Q That is provided for on pages 3 and 4; is it not?
A Yes.
Q Now, what is the principal governing body, or governance body of the Ferkauf School?
A On academic matters, the faculty.
Q Would that be the faculty as a whole?
A Primarily the full-time voting faculty.

Q As a whole?
A As a whole.
By "a whole," you mean full-time faculty members?
Q Meeting as a whole.
A Yes.
Q Do part-time faculty members also attend those meetings?
A No, not—very infrequently. Somebody might attend.
Q Are there regular meetings of the faculty?
A Yes, four times a year.
Q That is provided for, is it not, in the bylaws?
A I think so. Twice a semester.
[3868] Q Do you have the—you have the privilege of calling special meetings, do you not?
A I do. And the—I think the steering committee does too.
Q Would you tell us what types of matters—and I don't mean now in broad conceptual terms, but in more illustrative particular terms—what types of matters are dealt with by the faculty meetings as a whole?
A The—almost at every faculty—again, faculty meeting, or the faculty meeting as a whole, the faculty deals with all the matters that the various committees have dealt with prior to the—to the general faculty meeting, if there is something to deal with.
The names of these committees would connote the types of things that the faculty deals with, such as—
Q Tell us what faculty standing committees there are.
A I hope I don't miss any.
Steering committee, welfare committee, promotions committee, library committee, research committee—I can look here—curriculum committee.
I think that does it.
Promotions committee, I beg your pardon.
Q You did mention, did you not, the committee on standards?
A I may not have. Committee on standards.
[3869] Q But there is one, is there not?
A Yes.

Q Now, let's get back to my question.
Would you give us some examples of the type of thing, things, that are dealt with by the faculty meetings as a whole?
A Yes.
Q Separate and apart, may I add, from welfare matters.
A Every new program, academic program, or any—or every major change in an academic program, in the curriculum, is acted upon by the general faculty, for the faculty as a whole.
The general faculty also acts on basic academic standards of the school, such as foreign language requirements, such as degree requirements as recommended by various departments, after it goes through the curriculum and/or standards committee.
Another illustration would be that the general faculty acts on—or has acted on the recommendation from the welfare committee on matters that they want to bring before them.
Is that enough illustration?
Q No. What other items—putting aside welfare items, what other type matters are handled by the faculty as a whole?
[3870] A The faculty will act on changes in the criteria for promotions, if there are to be changes, since the '65—1965 approval of the bylaws.
The faculty used to act on the actions of the research committee. Now that committee is somewhat dormant.
Q Would you explain why this is so, why you used the term "used to act"?
A The research committee was primarily concerned with the distribution of money to departments or individual faculty members for research pilot studies, seed money for research. And, since about '68 we haven't had any money.
Q When you did have money, what was the function of the faculty as a whole with respect to that?
A The—I remember asking the research committee to set up criteria for the distribution of this research

money, which they did. And I recall that the research committee brought these criteria to the faculty to get approval, to get action.

Q Now, you used the term "used to" in your testimony.

Did you use that because research funds have dried up?

A Yes. Ferkauf research—Ferkauf funds for research.

Q Assuming those funds were to become available from Federal, State or other donee sources, would the research [3871] committee and the faculty as a whole have the same authority as it had in the past?

A No.

I said Ferkauf money. As far as Federal money is concerned—

Q Go ahead.

A I stated Ferkauf money. As far as Federal money, which comes usually, or only, through grants, that did not go to the research committee.

Q By Ferkauf money, you mean what?

A University funds.

Q Assuming such funds were to be made available again, would these committees still have authority?

A I would reactivate—or the research committee would become reactivated.

Q It has not been stricken from the bylaws?

A No.

Q And the faculty as a whole would have the same authority as it previously had?

A Sure.

Q Would you give us some other examples of matters that are handled by the faculty as a whole?

A I—

Q Would they get involved in tenure decisions, promotion decisions, matters of that type?

[3872] A No. The promotions committee reports to the faculty its actions and decisions. The promotions committee would seek faculty action for criteria of promotions.

Q How about tenure?

A There is no tenure committee from the faculty. I appointed a tenure council, consisting of faculty, tenured faculty, and they evaluate individuals for tenure appointments.

But there is no—there is no responsibility or obligation on the part of this tenure council, because the bylaws don't call for it, to report to the faculty at large.

Q Now, let's return for a moment—you have told us that every change in program and every new program must be approved by the faculty; is that correct?

A Major change.

Q Major change.

Have you ever instituted a major change in program or a new program without obtaining the faculty's approval?

A No.

In furtherance to your question, the steering committee always presents to the general faculty meeting, or to the faculty at large, or on the whole, their slate nominees for members of the various committees, and the faculty, A, acts on these nominees, and, B, elects from [3873] the slate.

Q Dean Gittler, you have been dean since 1966. Have you ever implemented a new program or changed a program in major fashion without obtaining the approval of the faculty?

A No. And the curriculum committee.

Q You have told us that the faculty as a whole has functioned with respect to foreign language requirements.

What do you mean by that?

A There are—there were and there still are foreign language requirements for all student doctoral candidates. The—down the line. That means even before I became dean, the standards committee, I believe, was responsible for setting up a long consultation with the registrar and with other relevant parties—and I use that term because I wasn't here at that time—set up foreign language requirements.

Since I became dean, on more than one occasion, the standards committee sought to change these requirements, and the standards committee brought it to the general faculty for action, approval, modification.

Q Did the faculty approve?

A I remember one time the faculty told them to reconsider some things. Another time they did approve the recommendations.

[3874] But it always depended for it to be implemented on the action of the faculty.

Q Did you—Have you changed these requirements on your own?

A No, never.

Q Dean Gittler, do you feel that you have the authority to go out and change these requirements your own without getting the faculty's agreement?

A I don't know, but I never did.

Q Not in almost ten years?

A Since '66.

Q I see.

Now, you have told us that the faculty as a whole passes upon degree requirements.

What do you mean by that?

A The —X number of course credits are needed for a degree. Certain clustering of courses are needed for a degree in a given program. So, the—these are illustrations of requirements.

These are brought to the curriculum and/or standards committee and ultimately brought to the faculty for action.

Q Dean Gittler, does the—do the new programs or major changes in programs, the foreign language requirements and the degree requirements of your school, all taken together, affect decisions of students as to whether [3875] they will come to your school?

A I guess so.

Q You guess so, or it is your educated view that it is so?

A You want me to answer it my way?

Q Yes, please.

A I think students come to the Ferkauf School because of the programs offered, the content of the programs offered, and the faculty that we have.

It could be that, if we change a program, it may displease prospective students.

I have tried to see to it, but I didn't have difficulty that way, because I think the faculty thinks that way, that giving a student, while a student is in matriculation, if a program is changed, that he has the option of pursuing the program that was in existence when he first came.

Q That required faculty approval, did it not? You went to the faculty on that?

For him to stay to his old program. To be grandfathered, so to speak.

A No, we didn't have it. It was—

Q Go ahead.

A We didn't have to. I think it was my understanding that legally he is entitled to it.

[3876] If the student shifts from the old requirements to the new requirements, it is usually an arrangement, a joint arrangement between the department that he is in and the student.

Q All right.

Returning to my question, when you said you guess so, do foreign language requirements affect whether some students will come to the school and some will not?

A It might.

Q And do the requirements that must be met to obtain a degree in your school as opposed to another school have an effect on whether students will come to your school?

* * * *

[3877] A It might. It's the only way I can answer it.

Q It might affect some students and may not affect some others, I assume?

MR. SHECTMAN: I object.

Counsel—the witness has answered the question.

HEARING OFFICER: Sustained.

Q All these requirements taken together, the degree, the foreign language requirement, taken together, to the best of your judgment, as an educator, have an effect upon whether your students will come to your school?

* * * *

[3878] A Every—I think that every applicant for admissions receives a catalogue in which all the requirements are listed for every program.

That must play a role, when he becomes familiar with that, in his decision to follow through, to come to the school, and so on.

And the catalogue—sometimes the catalogue is supplemented by departmental detailed—further departmental detailed requirements in the program that's also sent to the student. And they must play a role in the student's decision.

Q And the graduate schools in other universities with which you, in essence—I use the term loosely—compete also produce catalogues, do they not, and provide them?

A Yes.

Q Those catalogues state degree requirements, do they not?

A Yes.

Q And foreign language requirements, do they not?

A Yes.

Q And they state the program, do they not?

[3879] A Yes.

Q Those requirements at your school are determined by faculty, is that correct?

A All academic requirements at the school are determined by the faculty or its subgroups.

Q Now, you have told us, Dean Gittler, that the faculty has a steering committee.

Is that steering committee provided for in the bylaws that are before you?

A Yes.

Q That's found on page 8, is it not?

A Yes.

Q And the following pages.

Would you tell us, in your own words, however, what the steering committee actually does?

A Since I have been dean, the steering committee has performed two basic, if not only, functions and activities.

One is to—is to provide, not on all occasions, provide the agenda for faculty meetings; and secondly to present the slate to the faculty for membership on faculty committees.

Q You have told us there is a standing faculty committee on standards, and that committee is provided for, is it not, on page—pages 11—

A No, page 12.

[3880] Q —11, 12 and 13 and 14 of the bylaws?

A Yes.

Q Would you tell us, Dean Gittler, what that standards committee has actually done while you were dean?

A The standards—

Q Give us some examples.

A Yes.

The standards committee played the major role in changing the foreign language requirements for degrees from what it was before they recommended the changes.

The standards committee, all through the years that I have been dean, has always acted on the items that I have submitted to them consisting of students seeking a waiver for degree recipients. The—

Q What do you mean by a waiver?

A If a B average is required for graduation, and a student has 2.9, and asks for a waiver, and gives the reason, and the department backs the student, and the department gives the reasons, it's—it usually comes to me, and I send it on to the standards committee; and whatever they decide, that's what occurs, vis-a-vis the student's graduation.

Q Does that have an effect on whether the student may remain in school, or pay additional tuition to the school?

A If he doesn't graduate, and he wants to pursue his [[3881] degree further, he stays in school, if he wants to.

Q And would have to pay, I assume?

A Yes.

Q Unless there is a scholarship.
A Yes.
Q Would you tell us what else the standards committee does?
A The things I mention are the items that they have occupied themselves primarily since I am dean.

Right now the standards committee is engaged in what I consider to be a very important enterprise, in that—and that is to—they're evaluating and looking into the procedures and the standards of oral defense examinations.

Oral defense examinations means the final examination that a student comes up for before he can get his doctoral degree?
Q Is that important?
A Yes, it's very important.
Q Tell us why, please.
A There is probably no—in my judgment, no other hurdle that is as major, as important as the oral defense, which consists of five members, five individuals, examinaing the candidates for his degree.

It involves his dissertation plus anything else that has to do with his competency in the field in which he is [3882] seeking a degree.
Q Does the existence of this—I think you called it hurdle—
A For the student.
Q —for the student, have an effect, at least in some cases, in your experience, on whether a student selects your school as apposed to another?

Are some schools tougher than others in this regard?
A Yes.
Q Now, turning to these bylaws for a moment, Dean Gittler, and more particularly to page 12, does the committee on standards have a function with respect to admissions requirements?
A The admissions requirements, since I have become dean, are primarily devised by the various departments.

From various faculty minutes that I have read when I became dean, the admissions committee—the standards committee did discuss and make decisions and presented

them to the faculty on general admissions to the school.

But, since then, the departments have been primarily involved.

* * * *

[3883] Q (By Mr. Kramer) You told us, Dean Gittler, that departments have a role to play with respect to the admission requirements dealt with on page 12 of Petitioner's Exhibit 6, to Board Exhibit 2, and it states there that these requirements are grade point averages, examinations to be required for admission; and, to state some of them, passing scores on these examinations, interviews and recommendations.

Do departments establish these requirements?
A They way the thing—the way these have actually developed—
Q That's what we are talking about.
A —the departments decide who is to be admitted, given the candidates or the applicant's academic background, by programs and by departments.
Q So—
A So that generic requirements that this implies, if it implies that, for the school is not—has not been practiced now.
Q To the extent those generic requirements are established, they're established by the departments, is your testimony?
[3884] A No. If there were generic requirements, they would be established by the standards committee.
Q What is established by the departments?
A The bases for admitting applicants to their programs.
Q So, whether a student is to be admitted and pay tuition is departmental to a particular—to the school, and be admitted to a particular program is departmental decision?
A Yes.
Q And they—that decision is made by faculty members, I take it?
A In the department.

Q Let's return to page 12 of Petitioner's Exhibit 6, right in front of you there, the bylaws.

There is a reference there to the standards committee having a function with respect to transfer of credit.

Does it in fact have such a function?

A It may have had before I became dean, in setting the overall school transfer of credits permissiveness.

Q What you mean by that?

A That, if a student acquired X number of graduate credits in school A—

Q School A being where?

A Other than Ferkauf or Yeshiva University.

Q Right.

[3885] A —that how many of these credits acquired in another school would be determined by the department or the people in a given program in the department.

With this exception: that I believe there is an Albany requirement that says that not more than a certain number of credits—and to be accurate I'd have to look it up—not more than a certain number of credits can be transferred from an outside institution towards the degree at Ferkauf.

Q Who makes that determination at Ferkauf right now?

A Not more than?

Q Who makes the determination of how many credits are to be transferred, putting aside the Albany requirement? That's a maximum.

A The department.

Q That's members of the faculty?

A Yes.

Q Now, Dean Gittler, would the number of transfer credits to be afforded to a prospective transferee by your school as opposed to another school have an effect upon whether that student would come to your school?

A Yes. That could be very crucial, because, if a student can't transfer a certain number of credits, he may, in his mind, he may lose these credits, he may not come.

[3886] As a matter of fact, there were instances where that sometimes meant that he tried another university, that I know about.

Q It costs tuition dollars to obtain credits, does it not?

A Yes.

Q And the university receives tuition dollars for those credits, if they're not granted on a transfer basis?

A Yes.

Q On page 12 it also specifies that special status admissions—provisional, transient, et cetera, and equivalents—are a function of the standards committee.

Is this really the way it works?

A Again, before I became dean, the categories of provisional and transient and regular, I believe, were set up by the standards committee and/or the faculty in conjunction with the registrar's office.

Q Who is it who decides whether a student will in fact be admitted as a provisional or transient student?

A The department.

Q Does that determination have an effect upon whether the student comes to your school and pays tuition to the university?

A Yes. He may want a different category than that which he was admitted.

[3887] Q Now, on page 13 of this exhibit, under the heading to "course and program performance" are a number of factors from 1 to 10, which, according to the bylaws, are entrusted to the standards committee.

Are these items in fact entrusted to the standards committee, and, if so, which ones?

A Again, the standards committee may have played a role in setting up the grading system before I became dean. But the—but the actual grading of the performance of an individual in a given course is by the instructor.

Q The system, however, was set up by the standards committee.

Would the standards committee be involved in a change in the system?

A Yes, in conjunction with the faculty and the registrar, probably.

We never changed the system since I was dean.

Q Could the system be changed without the approval of your own faculty?

A It's inconceivable.

Q Does the grading system employed by your school have an effect on whether students will come to your school, or not come to your school, as the case may be, or be allowed to stay in your school and pay tuition to the university, as opposed to being asked to leave?

[3888] A It will certainly play a role in whether he'd be allowed to stay in the school.

The grading system is not so much different from any other university; ergo, I don't know whether it would keep him out or not.

Q The course examinations are listed as a function of the standards committee.

What role would they play, if any, with respect to that?

A I don't know. The course examinations are primarily individual instructor, faculty member, or department.

Q And academic—academic averages are listed?

A The academic averages—there is an academic average that's required for graduation. These academic averages are school-wide requirements, down the line.

By "down the line," I again mean when the thing was first set up it was a matter of faculty in conjunction with registrar.

Q Who determines what academic average will suffice for graduation?

A The—

Q The school-wide standard you referred to?

A The average, that—that was determined by standards, faculty and registrar all working in conjunction.

Q And could it be changed without faculty approval?

[3889] A It's inconceivable to me that the faculty wouldn't play a role. Certainly would be brought to the faculty, that change, prospective change.

Q Another standard item on page 13, under the heading "to course and program performance" is academic loads.

What role, if any, did the academic standards committee have to play with respect to academic loads?

A The standards committee didn't play a role in determining academic loads.

There are two aspects to academic loads. One constitutes the definition of what constitutes—what constitutes a normal workload for faculty, full-time faculty member.

This was determined about three years ago by the chairmen of the departments in consultation with their respective departments and brought back to a chairmen's meeting.

That's normal academic loads. In terms of a specific load during any particular semester, this, one, varies from semester to semester; two, is determined intra-departmentally, by chairman, and chairman and his faculty.

Q In the absence of an argument between the chairman and a particular faculty member, the chairman's decision, I assume, would control?

If I am wrong, will you correct me?

[3890] A Yes.

I know of several instances where individual faculty members would have liked to have taught less, but the position of the chairman prevailed.

Q Now, could this term "academic loads" as used on page 13 also pertain to the academic loads of students?

A Academic loads of students was determined also years back before I became dean.

And the—and the normal academic load of students was—was a joint decision, I think between faculty or its committee representatives and its committee and the registrar.

Q Are there academic load limitations at your school for students?

A Yes.

Q Would you tell us just briefly what they are?

A The normal load is 12 credits, which amounts to the equivalent of four courses, three credits in each course. A goodly—some students exceed that, but they exceed that only with permission, permission consisting

of recommendation from the department through its chairman to the dean.

Q Does the question whether a student may obtain permission to take an overload affect whether students remain in school or come to your school?

[3891] A It may affect their staying in school.

But coming to the school, I believe—I am not sure of this—I believe the catalogue says what the usual normal load of credit is.

Q By the way, Dean Gittler, your tuition is stated in what way?

A On the basis of per credit, 75 per credit.

Q That's for a matriculated student?

A Yes; for anybody who seeks credit.

Q Now, it also states that requirements of residence for doctorate, total time spent in studies and normal progression toward the doctorate is a function of the standards committee.

That's item .5 under A on page 13 of Petitioner's Exhibit 6 to Board Exhibit 2.

Is that in fact an area for the standards committee?

A I am aware only of the standards for normal progression toward a doctorate; and that is—that varies with departments.

Q That is established by the departments?

A Yes.

Q Conditions of probation is next in this list.

What role does the standards committee have with respect to that?

A I am not aware of when or whether they set up con- [3892] ditions of probations, but the—but there are school bases for probation, and that must have been set up also down the line by faculty and registrar.

Q What's meant by probation, Dean Gittler?

A Probation means that if they don't perform—because of a performance of a given semester, they are taken—at a subsequent semester they have to perform better, much better, in order to remain as a regular degree-pursuing student.

Q If they don't, I assume they're out?

A Then it may take the course of recommendation for dismissal.

Q These are faculty decisions, are they not?

A The recommendation for dismissal comes from departments.

Q And that comes from faculty members in the department, I assume; is that right?

A Yes.

Q And has—

A Chairman and faculty.

Q And has a financial impact on the institution?

A Those who leave are not paying.

Q Now, point 8 under item A on page 13 deals with enrollment and attendance in courses and withdrawal from courses.

[3893] Does the standards committee, or did the standards committee have a role in establishing standards for withdrawal from courses and for attendance in courses?

A They may have down the line. But right now in practice, right now in practice any requirements for a given ratio of attendance to absences, and what it means in terms of how it affects the student, would be purely a departmental matter, a departmental matter.

Q Are departments free to establish a rule that non-attendance will mean failure in a course and, therefore, no credit?

A They could. But it hasn't happened.

Q They have that authority?

A Right now it could take—it would take the form, in practice, of a student being given an incomplete or being flunked if the instructor thinks that his attendance didn't warrant his receiving a passing grade.

Do I—

Q Yes, you do.

And would you explain what type of requirements exist with respect to withdrawal from courses, and what that means to us as laymen?

A The—it can mean a number of several things.

A student may ask to withdraw from a course because of personal matters, such as illness.

[3894] A student may seek to withdraw from a course because the other courses constitute an overload in his mind.

He may seek to withdraw from a course because he had to seek gainful employment outside the university, outside the school.

He then—there is a form where he asks for withdrawal from the course, and this has to have approval of the instructor and/or the chairman, the dean and the registrar.

Q If the student withdraws, does he—and the withdrawal is approved, as you have just described, would he obtain a credit for the tuition paid?

A No. If he withdraws from a course, he doesn't get credit for the course.

Q How about the tuition paid?

A If he withdraws at time A, he loses so much of the tuition that he paid for it.

If he withdraws at time B—and I don't know how many weeks offhand—and if he withdraws at time B, he may lose more.

If he withdraws after time C, he may lose all the tuition.

Q All right.

Who establishes these requirements for withdrawal as to timing?

[3895] A Right now it is a school requirement, down the line, which I am not aware of. It must have been a school and registrar decision.

Q Established by the school and the registrar?

A This is my understanding, because we never had to deal with it while I was dean.

MR. SHECTMAN: Could the witness clarify, when he says "school down the line," whether we are talking university-wide—

THE WITNESS: By "down the line," I mean prior to my becoming dean.

MR. SHECTMAN: We are only referring to Ferkauf?

MR. KRAMER: Mr. Schectman, if you have a question, go ahead.

MR. SHECTMAN: Are you only talking about Ferkauf now, or university-wide?

THE WITNESS' Ferkauf.

Q (By Mr. Kramer) Do you know who established that school requirement?

A As I say, it was before my becoming dean, which means down the line; and it's my understanding that it was a faculty, standards committee and registrar.

Q Acting together?

A Yes.

Q Now, let's turn to the bottom of page 13, where it [3896] provides that the standards committee is to serve as the final impartial judicial review board when an appeal is raised by students, faculty or administration; the committee shall adjudicate questions concerning these rules pertaining to the maintenance of academic standards and scholarly or professional conduct or students.

Does the committee in fact function in that fashion?

A No. Actually it hasn't.

Q How does it function?

A Relative to this?

Q Yes, sir.

A The—I used to—used to submit to the standards committee every question that arose regarding a student's status at the school.

About a year and a half ago, the chairman of the standards committee told me that they'd rather not deal with those kinds of situations.

So, I set up what's known as a—as a council on appeals and grievances, where these kind of things are taken up.

Q Dean Gittler, now let's turn to the curriculum committee for a moment.

Would you tell us what the functions of the curriculum committee are in practice? What do they do?

A The curriculum committee has done the following: [3897] One, for about two years ending—about two years covering the period, I believe, between '70 and '72, the curriculum committee went through an evaluation of every extant academic program in the school.

By evaluation, I mean they asked for departments—they asked departments to submit the—every—a report on every academic aspect of the program.

By academic aspect, I mean requirements for the program, number of credits, types of courses, clustering of courses, so on.

Then these—the chairman and the head of a program, the nominal head of a program, met with the curriculum committee to clarify, explain, aspects of the report.

This went on for about two years. It was a self-evaluation process.

This is not going on right now by the curriculum committee.

But all through the years the curriculum committee was involved in the following:

One, they had—they passed on every new course that was to be offered in the school.

Two, they acted on every new program that a department wanted to—wanted to introduce. That new program had to go from them to the faculty.

Three, the curriculum committee acted on every change [3898] in a program that a department wanted to change.

Those are the main things.

Q Would it be fair to call this a rather active committee?

A Yes. That's an active committee.

Q Now, let's turn to the committee on promotions, Dean.

Is that committee still in effect?

A Yes; very active committee.

Q Would you tell us, as best you can recall, what that committee does?

A There are basic guidelines—by guidelines is meant things to be considered or criteria for promotions—set forth in the bylaws. That's a faculty decision.

The curriculum committee decided on the details of implementing these guidelines.

Q I would call to your attention, Dean Gittler, that we have in evidence, and I am placing before you at this point, Petitioner's Exhibit 12-A and 12-B to Board Exhibit 2, which is in evidence in this case. Board Exhibit 2 being the transcript of the earlier hearing, the first hearing in this matter; 12-A being entitled criteria and procedures for promotion as codified by the faculty committee on promotions; and the document 12-B being entitled guidelines for promotions, J. B. Gittler.

A Yes.

[3899] Q Dated February 1970.

Would you consider with your testimony?

And you can make reference to Petitioner's Exhibit 6 and 12-A and -B in your testimony.

A Okay.

What does this mean, P-12-A?

Q Petitioner's 12-A it means.

A On Petitioner's 12-A, page 1, that constitutes the basic criteria that I have referred to and guidelines set up by—set up by the promotions committee and the faculty for promotions.

Then I mentioned that the promotions committee has, from year to year, detailed in various specifics how to implement these basic guidelines for promotions.

The—no one is considered for promotion unless a recommendation comes from a department. When a recommendation comes from the department for promotion, it goes to the promotions committee.

The promotions committee then evaluates the candidates on the basis—on the bases of these basic guidelines plus the detailed specifics that the promotions committee has set up to further clarify and elaborate on these guidelines.

They discuss the candidate; they may call in the candidate; they may call in the chairman. They ask for [3900] all kinds of materials from the department on this candidate. And there is discussion, ultimately leading to a vote by the members of the committee.

The members of the committee consist of five voting members and two alternates. And it's a positive vote constitutes a recommendation for promotion of this individual. And this goes to the dean.

If the dean—the dean agrees, it goes to the president, who ultimately makes the—actually makes the promotional appointment.

Want me to go on?

Q Just want to focus for a moment.

With respect to this latter point, would you turn, Dean Gittler, to Appendix A to Petitioner's Exhibit 6 in evidence and, more particularly, to page 4, Item 2.

A You will pardon me. I don't know where you are.

Q Would you please turn to Petitioner's Exhibit 6, which is the bylaws, and, more particularly, to Appendix A of Petitioner's Exhibit 6 and to page 4 therein, Item 2.

It states that failure of the committee to support a departmental recommendation or appeal by individual faculty member, in such cases the committee must state its reasons for rejection, with the exception of cases of faculty members who have not been promoted for ten years; committee action shall be final.

[3901] Do you see that there?

A I don't find it, but I am aware of it.

Q No, I'd like you to see it and read it.

A Okay.

Q Now, I note, Dean Gittler, that, where other provisions of this set of bylaws have been revised, there are notations to that effect, does this provision that I have just read to you remain in full force and effect?

A I—

Q Just the one I read to you, it hasn't been changed, has it, by faculty action?

A The committee, if it turns down a recommendation from a department for a promotion, does give its reasons to the department and, I think, even to the individual candidate.

I don't know of a case of a person not being promoted for ten years having come up during my time.

Q I am talking about that. The last sentence, about the finality of the decision.

A With the exception of cases of faculty members who have not been promoted for ten years, committee action shall be final.

Q And that provision has not been changed, has it?

A No.

Q And where the decision is negative, except for the [3902] ten-year caveat you have just read to us, the decision is in fact final?

A According to this, yes.

MR. SHECTMAN: No. The witness is not answering the question. The question was in fact final.

THE WITNESS: I think I answered it by saying I have never had a situation arise during my time.

Q Have they turned down people for promotion in this committee?

A Yes.

Q Have any of the people that have been turned down by this committee ever been promoted after they have been turned down?

A No. If that's—

Q Do you know whether this bylaw provision has ever been taken out of the bylaws by the faculty?

A No. It has not been taken out.

Q It remains in full force and effect, Item 2 on page 4 of Appendix A, is that correct?

A Yes.

Q Now, returning to Petitioner's Exhibit—strike that.

Now, you told us, Dean Gittler, that where there is a positive or affirmative recommendation from this committee, it goes to you.

A Yes.

[3903] Q And I think your testimony was that, if you agree, it is then passed on to the president of the institution.

A Yes.

Q Is your agreement in fact required for someone to be promoted?

A Yes.

Q If you disagree, what happens?

A He would not be promoted.

Q Isn't there an appeal to the president, separate and apart from your determination?

A There could be; but, if there was appeal over my veto or rejection, he has never—the president has never

promoted anybody, if there was an appeal. And I am not aware of an appeal.

* * * *

[3904] Q Dean Gittler, you have been dean for nine years.

How many times have you reached a conclusion different from the promotion committee with respect to an affirmative recommendation?

A I beg your pardon? Tell me again.

Q How many times in that nine years have you disagreed with the committee with respect to an affirmative recommendation?

A Once.

Q So that in only one instance did you disagree with them?

A Yes.

Q In that instance, I take it, the person was not promoted?

A That's right.

Q But you have only had one occasion in nine years?

[3905] A Yes.

Q Otherwise, the recommendations of the promotion committee have been accepted, affirmative recommendations of the promotion committee, have always been accepted by you?

A Yes.

One thing has to be clarified. And that is that, if I remained neutral or abstained, that I am not defining that as disagreeing with the committee.

Q I understand.

Where you remained neutral or abstained, was the recommendation forwarded on to the president?

A Yes.

Q And it was forwarded on as an affirmative recommendation, I assume?

A Not from me; from the committee.

Q From the committee.

How many instances, percentage-wise, did you abstain in?

A Not more than two instances.

Q Approximately how many—That's not a percentage, but I will take that answer—approximately how many times did you join—

A In agreeing with the committee?

Q Right; and pass on your recommendation with the committee's to the president?

[3906] A I—

Q Approximately.

A On the assumption that we average two promotions a year, then it would be 18 times. But it may have been more than two. I don't—

Q By the way where you have joined the committee, has the president ever—

A "Joined" means agree?

Q In an affirmative recommendation, have those promotions been made by the president?

A Yes, in every instance.

Q In the situation where—two situations, or approximately two situations in which you abstained, to the best of your recollection, was the appointment made by the president?

A Yes.

Q Do you know of any instance in which—

A I am sure of one. I don't remember the two.

Q Are you sure—strike that.

Now, turning to the negative instances, do you know of any instance in which the promotion committee was negative in which a promotion was made?

I think you answered that already, but I think the record ought to be clear.

A No, I don't know of any instances.

[3907] Q In other words, negative remained final?

A Yes.

Q Is that a yes?

A Yes.

* * * *

Q Who determines who is to be on the promotions committee?

[3908] A The steering committee presents is nominees, its slate, to the faculty. The faculty votes.

Q Three members of the steering committee are elected by the faculty?

A All the members of the steering committee are elected by the faculty.

Q Even though the bylaws provide differently; is that correct?

A Yes.

I never appointed anybody on the steering committee.

Q So the bylaws provision here that two of those steering committee members can be appointed by you and three by election from the faculty is not the way it really works, is it?

A No. I have never appointed.

Q Now, I believe that the committee on promotions that we have just been talking about is also denominated in these bylaws as a committee on appointments and promotions.

Is it in fact a committee on appointments?

A No. It's only a committee on promotions.

Q Would you tell us, Dean Gittler, how appointments of full-time faculty members are handled at your school? How does this all come about?

A If there is an item or a slot for an appointment, it proceeds in the following manner:

[3909] First it constitutes a recommendation from the chairman and/or the department to me. The assumption is that they have gone through, evaluated, a number of candidates, interviewed some, maybe all of them. And ultimately it becomes a recommendation to the dean.

Then, when and if I agree, I ask for an appointment to be made by the president of this individual recommended by the department.

Q Now, would you tell us the role of the departmental chairman in the hiring process?

A I—

Q If those roles vary, would you give us an understanding for the spectrum of roles that may be played?

A I am most familiar with the relationship of the department—of the chairman to the dean, less familiar of the relationship between the chairman and his faculty in the departments.

But I am aware of the following:

In most instances regarding intradepartmental operations and procedures between faculty—and procedures in the department, including the chairman and faculty, I

get—I know of very few instances, if any, where the recommendation of a new appointment, for a new appointment, by a chairman, would not—would not include the chairman's consultation, interviews, by members of his department of [3910] prospective people.

Q Now—

A Faculty members.

Q Now, Dean Gittler, in bringing your new faculty member, full-time faculty member, aboard, one has to determine what rank he will receive.

A Yes.

Q How do you go about doing that? How is that done?

A There are several things.

First, the item in the budget, which expresses itself in monetary terms, is the major determinant of the rank, because we have a—we have a salary schedule by rank. So, if there is X amount of money available for the appointment, this X amount of money falls into rank Y. And then the appointment has to be in that area for that money.

Q There is some discretion, I would assume, in where one places a new faculty member?

A I don't think I—

MR. SHECTMAN: I will object to the wording of the question.

MR. KRAMER: I withdraw the question, counsel.

Q Is there some discretion, Dean Gittler, in where a new faculty member will be placed; or is it an absolutely automatic proposition?

[3911] A No, it's not automatic in the following sense: that I—we may have, or there may be more money than an appointment for a given rank, like—such as assistant professor, may be money for an associate professor, but an applicant or a candidate may be—may be preferred by the department, and his background warrants assistant professor's appointment, so that they will not appoint, even though there is money, in the associate professor rank.

Q That determination is made by whom?

A It comes up that way, in most instances, from departments.

Q In other words, it's the department, the faculty members themselves who decide whether this new hire will be an associate or assistant professor, and where he will be placed on the salary scale; is that right?

A Yes.

I may raise questions about his deserving to be in a given rank. But, from my experience, they have always come through with the recommendation in a given rank.

Q Does the department chairman play any special role in connection with this?

A The department chairman is the administrator in his deparment, and—and if you will allow this pretense of erudition—administration means administrary steering. He leads, he steers, and he influences in almost every [3912] instance. So he plays a very significant role that way.

Is that what you mean?

Q I think that answer is adequate.

Dean Gittler, have you ever approved the appointment of a faculty member who was not recommended by his department?

A No. No.

Q Have you ever approved the recommendation of a faculty member who was opposed by the department chairman?

I am talking about new full-time faculty members in all of this discussion.

A Recommended by the department, but not recommended by the chairman?

Q Yes.

A I know of no such instance, no.

Q Have you generally appointed the new faculty members who were recommended for appointment by the departments?

A There were one or two—generally, yes. More than generally, yes. Ninety-eight percent of the time.

Q Now, has the president of the institution ever vetoed any of these appointments?

A No.

Q For that matter, has Vice President Fishman vetoed any of these appointments, new appointments; in other [3913] words, once they were chosen and recommended up the line?

A It's a matter of just last year. No.

Q And Vice President Fishman had a predecessor, did he not, several years ago?

A Yes.

Q Did he ever veto any of these appointments?

A I don't think we made appointments during his vice presidency.

Q Has the board of trustees ever vetoed any of these appointments?

A No, not at the Ferkauf School.

Q The departmental chairmen, Dean Gittler, how are they selected or appointed?

A It's a recommendation from the department to me, and from department faculty to me.

And, until recently, I made the final decision. Actually, I was supposed to ask the president to appoint the chairman.

Q As a practical matter, he does not do that, does he?

A He didn't do it, no. I just went ahead and appointed him.

Q Do you know Professor Martin Miller?

A Sure.

Marty Miller, you mean?

Q Marty Miller.

[3914] A Yes.

Q He is a department chairman, is he not?

A Yes.

Q Which department?

A Special education.

Q Is there a course reduction that comes with that appointment?

A Yes, a workload reduction.

Q Would you tell us about that, please?

A A chairman in a department at the Ferkauf School is entitled to a reduction of half of his workload.

Q Why is that, Dean Gittler, if you know?

A Because of the work duties and responsibilities of

a chairman that consumes time that the ordinary member of the—non-chairmen member of the department is not involved with.

Q Now, Dean Gittler, is there such a thing in your school as the council of department chairmen?

A Yes.

Q Would you tell us how that body, which is not provided for in the bylaws—

A That's right.

Q —of the faculty came into existence, and then what it does?

A Starting in October 1966 or thereabouts I instituted [3915] these regular and semimonthly—on the average, semimonthly meetings of chairmen with me.

It's a—it isn't frequently referred to as a council. It's the chairmen's meeting.

What it does was your question?

Q Yes. What goes on in these meetings, Dean Gittler? What's the function of this group?

A Since the chairmen's group or council was instituted, I'd be hart put to think of anything that is—that is introduced, innovated or anything that has to do with the welfare of the school or departments that isn't discussed at the chairmen's meeting.

And that isn't decided by the—at the chairmen's meeting, other than those items that have to go to the faculty. But even those that have to go to the faculty go from the chairmen.

Q Putting aside for the moment the kind of items that have to go to the faculty, and you have discussed many of those with us this morning, would you give us five or six examples of the kind of things that are decided in the chairmen's meetings that you just referred to that do not go to the faculty?

A Okay.

Up to recently—and I will account for why we don't do it recently—up to recently, at budget time, [3916] I took up with the chairmen every aspect of the budget and the breakdown and the distribution of the budget for the Ferkauf School.

The reason I haven't done it in the last two years, although again they're familiar with what goes on in the budget, is that there literally has not been any modification or alteration in the budget in the last two years from the previous years, in terms of the amount of money that we have—

Q Why is that, Dean Gittler?

A Didn't get more money.

Q Assuming that our times were to improve in this country and money was to become more available, is there any reason for the procedure to have changed?

A That I—that I emplowed before?

Q Yes.

A No.

I might point out this: that, notwithstanding the financial exigencies of the university, I prevailed on the vice president and the president for additional appointments, additional new appointments; and who was to get what appointments was decided by the chairmen.

Q Would you tell us—so that the chairmen would continue to have this budgetary role that you talked about assuming there were some increase in the funding levels? [3917] He can't take a shake of the head.

A Yes.

Q Now, give us some more examples of the kinds of things decided by the chairmen.

A I—

Q In this meeting with you.

A Up to recently the chairmen would be asked where they stood on a departmental individual recommendation for an appointment.

Q What does that mean?

A That means this: that a department—that, if department A recommended a specific individual for an appointment, I would have that department chairman bring to the chairmen's meeting his vita, his background, his reasons for the departmental recommendation. And I would seek the various chairmen's reaction to that particular recommendation.

Q What did you do with that input, Dean Gittler? What use did you make of it?

A In—I am unable to recall instances when the department chairmen, other than the particular department chairman who is recommending an appointment, where they disagreed with the particular candidate.

When this particular candidate was not appointed, it was mainly due to the department—the department [3918] chairman who's recommended this candidate, it was really resulted in, after the discussion, the department chairman withdrawing that particular candidate.

Q That's the reality of the process, is it not?

A That's the way it occurred.

That was very infrequent. Most times the recommendations were such where it met consensus and agreement with the other departments.

Q Now, in addition to these items you have given us, could you give us a couple of more examples of the kinds of things that are decided in that meeting?

I assume not all of them are major items. There must be some minor ones as well.

A It's at the chairmen's meeting that the initial call and then the discussion for course offerings for subsequent semesters—the initial call is made and discussed.

It's at that—it's at that meeting that chairmen report on—on how they plan to use their money for the part-time people.

At the chairmen's meeting the chairmen—I ask the chairmen to act on the draft of the academic calendar that the registrar submits as a draft.

Frequently—I don't know about frequently, but almost every year there's been a modification by the chairmen of the academic calendar that the registrar submits; [3919] and the modifications have almost always prevailed.

It's at the chairmen's meeting that much, much discussion takes place relative to interdepartmental course offerings.

By interdepartmental course offerings, I mean students in department A enrolling in courses in department B for the student's program; so, there is that exchange and interaction.

Q What role, if any, Dean Gittler, has the department chairmen's group had with respect to tuition increases?

A Oh. The—When I had an idea that tuition should be increased, I always brought it to the chairmen. And I did not make the recommendation to the top administration for tuition increases unless the chairmen agreed with it.

But very frequently the chairmen are the ones that came up with all kinds—with ideas about increasing tuition, and not just tuition across the board, but right now we are in the process where the chairmen are recommending diverse tuition for students in different programs. And that's coming from departments, through chairmen.

Q Professor Miller is a chairman today?

A This year, yes.

Q Is he involved in this process you have just been describing to us?

[3920] A Yes.

* * * *

[3923] Do you also have a council on tenure?

A Yes.

Q Would you tell us, is the council on tenure provided for in the bylaws, Petitioner's Exhibit 6?

A No.

Q Would you tell us about the council, how it came into being, who it consists of, and what it does?

A Tenure appointments used to be made by chairman to dean to president. The evaluation was primarily a departmental evaluation.

When I became dean, I instituted this council, dean's council on tenure, and all the tenured faculty at Ferkauf are members of the council on tenure.

Q Approximately how many members are there, Dean Gittler?

A I will tell you in a minute.

Twenty-one, as of the fall semester.

Q Do those include all the tenured faculty members at your school?

A Yes.

Q Now, what is it that transpires at a meeting of this council?

A A faculty member who has been fully employed as a full-time faculty member at the university comes up for his—for seven years—comes up for—when he comes up for his eight-year reappointment, has to come up as a [3924] tenure appointment. And so those faculty people whom the department wishes to retain after the seventh year, those faculty members are evaluated by this tenure council.

Q Before we pass on, Dean Gittler, you said that those faculty members the department wants to retain are evaluated by the council.

Is there first an evaluation in the department?

A Yes.

Q Would you tell us about that?

A The—I know through the chairman of a department that the faculty—that the faculty in that department wishes to retain this faculty member. And the kind of evaluation that goes on in the department I am not familiar with the details, and it varies from department to department.

Q But the faculty member would not be considered by the tenure council unless he or she was first approved and recommended by the department; is that so?

A That's so.

Q Now, let's assume there is a recommendation by the department, what format does that recommendation take?

A The chairman sends a recommendation to me.

Q In writing?

A In writing.

I convene the council on tenure.

[3925] Q What does that recommendation look like in a typical case? What can we visualize here?

A A letter from the chairman giving his reasons and his rationale for his recommendation of this individual for eighth year tenure appointment. And he—it's usually a detailed letter that goes into his teaching effectiveness, his research activities, his publications, et cetera.

Q His activity on committees?

A And activities on committees.

Q Would you continue the deliberations of the council?

A And I convene the tenure council, which consists of all the tenured faculty of Ferkauf.

This tenured—this council on tenure has a committee on initial screening and evaluation. I appoint the—the council wanted me to appoint the screening committee, so I appoint from the council, I appoint five members to the screening committee, one from each department, with the exception of the member—with the exception of a representative of the department in which the candidate is coming up.

Now, this screening committee goes through a very, very extensive and rigorous evaluation, amounting to his —almost his total academic history, including his performance and his involvement in every one of those cate- [3926] gories that you happen to mention just previously, whatever documentation there is on his teaching effectiveness, whatever information we know about, his participation in student dissertation supervision, whatever information we can gather on his publications, whatever—so on, his membership in committees.

And sometimes, but rather frequently—I mean, maybe almost always—the screening committee will either by themselves or ask me to make contact with some top people in the given substantive area, discipline, of this candidate to see what their opinions and posture is relative to this candidate.

Now, this screening committee gathers all this information, and then they make their recommendation to the tenure council, which I convene after that when they are ready.

Q What happens then?

A Then the tenure council discusses the—whatever the screening committee presents.

Sometimes it has asked the screening committee to look for additional information.

But finally the tenure council votes by secret ballot the recommendation for a tenure appointment.

Q Do you vote?
A No. I chair.
[3927] Q All right.
When the secret ballot vote is completed, what occurs? Assume it's favorable now.
A Yes.
Then in almost every instance, except one, through the years—since '67, since it was a year after I came, in every instance with the exception of one—let me see if that's a correct statement—yes, in every instance except one, I then made the recommendation to the president for a tenure appointment.
Q Were your favorable recommendations all accepted?
A Yes.
Q All right.
This—This "except one" that you have told us about, where apparently the council recommended yea, and you felt differently—
A Yes.
Q —would you tell us what happened there?
A The recommendation from the council to me, while it constituted a majority vote, was, one, a very close vote; it wasn't a clear-cut—we'd like unanimity; it wasn't a clear-cut vote.
After that, before I made a final decision, I went back to the department and asked them to elaborate on their recommendation. And the department in this instance, [3928] when I went back to them, whatever the motivation was before, the majority of the department either voted—did not want him to have tenure, or they abstained.
Q Then what happened?
A And so I did not recommend the tenure appointment.
Q Did the—was there—you did not recommend a tenured appointment to the president?
A That's right.
Q Was there a dissenting voice expressed to the president by the council?
A No.

Q And the faculty member involved was not appointed?
A No.
Q By appointed, I mean he wasn't granted tenure.
A Yes.
Q Approximately how many affirmative recommendations have there been by the tenure council during the time you have been dean?
Obviously, you can't be exact, but give us your best estimate.
MR. SHECTMAN: I am going to object to the question, because I believe its terms are inconsistent.
I am not sure the testimony has established that this tenure council has existed since the witness has been dean.
[3929] MR. KRAMER: Excuse me.
Q How long has this council existed?
A I brought it into being, I think, a year after I became a dean.
Q Now, will you answer my question with that caveat?
A A minimum of ten.
Q That's the lowest number that you can estimate?
A Yes.
Q Now, have they, during this period of time you just indicated, come up with any negative votes on tenure?
A Yes.
Q Approximately how many of those?
A Let me think.
Between three and five.
Q All right.
Have you reversed any of those negative recommendations?
A No.
Q Have any of those people who were not recommended been appointed to tenure? Have any of those people who have not—who were not recommended been given tenure?
A No.

Q They weren't given tenure by the president of the institution?

A No.

[3930] Q By the board of trustees?

A No.

Q By the way, does the president of the institution make his own independent investigation of an affirmative tenure recommendation?

A No.

Q Or are they just approved routinely.

A I don't know about routinely. He takes my judgment.

He may ask me a question or two.

Q You in turn accept the recommendations of the council?

A To the extent that I mentioned.

* * * *

[3931] Q (By Mr. Kramer) Is it a fact—strike that.

You told us a while ago, Dean Gittler, that, were the Ferkauf School's budget increased, the procedures with respect to budget that are applied by the department chairmen's group would continue as they had in the past; is that right?

A Yes.

Q Would that also be true with respect to a decrease in the budget, should that occur in the future?

A Should that occur in the future, yes.

It has in the past.

Q The fact is, however, that the budget has remained the same the last two years?

A More than two years; three years.

Q Three years?

A Yes, with the exception of the new additional appointments that I mentioned, remember, for this year, as of last year.

Q Yes, sir.

[3932] Now, in addition to the department chairmen, do you have program directors at your school?

A Not for every program, but for some.

Q All right.

Would you tell us, first, what a program is; and then what a program director is?

A Yes.

Q And does.

A A program consists of a series of course and other requirements in the pursuance of a degree in a given substantive academic area, which is a subarea of the conventional disciplines, such as social psychology would be a substantive academic area in sociology; clinical psychology would be a substantive program area in psychology.

In special education there is a program in mental retardation, so on.

Q Now, what is the function of the program director in those programs where you have a program director?

A Program directors are unofficial directors.

By unofficial directors is meant that they usually constitute the leadership of the program in a given department, and they are usually appointed by the chairman in consultation with other members of the department.

His function varies from director to director, from program to program.

[3933] In some instances, in some programs, they have almost full authority insofar as devising the requirements for that program, for admitting students to the program, along with the other faculty in that program.

They have—they usually devise—they usually select the fellows in that program, if there are fellowships.

That's an illustration.

Q By fellowship you mean what, Dean Gittler?

A We have at the Ferkauf School three—what is known as three training grants from the government: one in clinical psychology, one in special education, I think primarily in the program of mental retardation, and we have a training grant in school psychology.

Now, these training grants have X proportion of the grant allocated to fellowships.

Q Are the fellows employees, or are they students?
A They're students.
Q All right.
Now, in special education, do you have several programs?
A Yes. Mental retardation, and one on dash disabilities; I forget the exact term.
Q Are there any program directors in that department?
A There is not clear-cut as some others. And I usually—I usually interact primarily with the chairman in that [3934] department.
Q Who decides whether there are to be program directors?
A The chairman and the department.
Q In the case of special education, the chairman is Professor Miller; is that correct?
A Yes.
I don't appoint program directors.
Q Do you have sabbaticals in your school?
A Yes.
Q Who makes decisions about whether a faculty member will or will not receive a sabbatical?
A A faculty member is entitled to a sabbatical on a —a full-time faculty member is entitled to a sabbatical after, usually, six consecutive years of full-time service. The seventh year I get a recommendation from the chairman for sabbatical for an individual in his department.
And, coupled with that, comes a detailed memo on his plans for sabbatical.
And I make the recommendation to the president.
Q Have you ever granted a leave—by leave, I mean a sabbatical leave—without the recommendation of the department chairman?
A No.
Q Now, do department chairmen have secretaries?
A Departments have secretaries. They're usually in [3935] the chairman's office.
Q Do they work principally for the chairman, in most situations?
A And the department.

Q I asked you principally.
A I don't know.
Q All right, you don't know.
Does the chairman have authority to direct the secretary?
A Yes.
Q To determine if there is a dispute or a problem of allocation, who that secretary will work for?
A I would take the chairman's recommendation.
Q All right.
A If there is a dispute.—
Q If the secretary does not do the work the way he or she should, does the chairman have the authority to reprimand that secretary?
A Yes.
Q And, if the secretary is sufficiently deficient in a chairman's view, to recommend her termination?
A Well, after X period of time she cannot be terminated because of the union affiliation.
Q Except for cause?
A For cause.
[3936] Q Does the chairman have authority to recommend to you the termination for cause?
A Yes.
Q And would you generally accept that recommendation?
A Yes.

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[3938] Q In addition to the council on tenure, is there a council on grievances at your school?
A We call it a council or committee on grievances and appeals.
Q Would you tell us when that council came into being, who elects or appoints it, as the case may be, and what that council does?
And that is not a leading question.
A I brought that council into being last year, during '73-'74.
For the reasons that I mentioned previously, all matters of appeal from a decision of a department, from

students—weren't any from faculty—I sent to the standards committee.

The standards committee, through its chairman, one time told me that they would not like to handle those appeal situations. So I set up this council of grievances and appeals.

They—the members of that council consist of what I could very easily define as the senior members of the faculty of the Ferkauf School. They are usually the full professors in the school, not all of them, but—I mean, not all the full professors in the school are on the appeals and grievances council, but all the faculty members are full professors, I believe, there on the thing.

[3939] Then the chairman of the standards committee is a member, and five students from each department. That's the—that's the council of grievances and appeals.

Since last year we had one case come—one case come up that I took to the—to this council of appeals and grievances.

Do you want to know about the case?

Q Tell us about it, please.

A A student for several reasons was recommended by the psychology department for dismissal.

They—a copy of that recommendation came to me, and went to the registrar. The registrar acted instantaneously and dismissed him.

But I told him that this is to go to the council of appeals, and to change his order.

I convened part of the council, omitting the members of the psychology department, and the chairman of the psychology department came to this council where there were students and the chairman of the standards committee, and then the other senior members of the faculty on the council.

The chairman of the psychology department came to present the case for dismissal, speaking for himself and the name of the department.

The student was present. And we met for hours. Then the council voted not to dismiss.

[3940] Q And he was not dismissed?

A As of now.

And I so informed the department that I will go along with the council. But I gave them an opportunity to meet with me and talk with me.

I met with the members of the—all the members of the psychology department, and they seemed to still insist that he should be dismissed.

So, I said then we will have another meeting of the entire psychology faculty along with the council on grievances and appeals.

And I so informed the student, and asked him whether he wants to appear again. He said he prefers to talk to each individual faculty member in the psychology department.

And this is where it stand now. It stands where he is not dismissed, and that he is in the process of meeting with the members of the psychology department.

Q You have told us, Dean Gittler, about how new full-time faculty members are hired.

Could you tell us how part-time faculty members are hired?

A Part-time faculty members usually are hired by recommendation from the chairman of the department whom he consults; I assume that he consults the program directors and the members of the department.

[3941] Anyway, I get a recommendation from the chairman of the department for individual A to teach course X for so much and so much money.

This is—and it's almost always a formality for me.

Q The so much and so much money that you just referred to, how is that determined?

A Each department, after we discuss it at the chairmen's group, each department will receive from me a statement that they have so much and so much money for part-time faculty. And then they distribute it; they break it up as they see fit.

Q Have you ever vetoed—

A A part-time recommendation?

Q Yes, sir.

A No. Only if I didn't have money.

Q Would you say, then, that you generally approve those recommendations?

A Yes.

* * * *

[3952] Q Does your school in fact have a curriculum research and development center in mental retardation?

* * * *

Who is the director of that center?

A Herbert Goldstein.

Q He is a full-time faculty member at your school?

A Yes.

[3953] Q Now, on or about November 29, 1974, did you and Professor Goldstein, on behalf of Yeshiva University, apply for a federal fund grant of $590,021 for that center for the period January 1, 1975, to August 31, 1975?

A Yes, a renewal grant.

Q The original grant dates back several years; the original funding dates back several years, I take it?

A Yes.

Q I show you a multiple document entitled "Curriculum Research and Development Center in Mental Retardation, FGS, Yeshiva University, 55 Fifth Avenue, New York, New York 10003, Continuation Proposal, January 1-August 31, 1975."

Is this document of several pages the proposal?

A Yes.

Q Is your signature found on the first page of that proposal?

A Yes.

Q Together with Dr. Goldstein's?

A Yes.

Q And are the numbers that we—is the number that we just referred to, $590,021, found on that page?

A Yes.

Q And the date of transmittal, November 29, 1974; is that correct?

[3954] A Yes.

Q Has the institution—meaning Yeshiva University—in fact received or—in fact received the $590,021, or

received approval of this grant with the money to come later?

A Yes.

Q Which is it?

A I don't know whether—

Q Have they actually gotten money, or just approval of the money?

A I don't know how much of it they got to date, but they're supposed to get all the money.

Q In other words, this has been approved?

A Yes.

Q Now, Dean Gittler, aside from signing this continuation proposal, do you have any role—any role in the direction of this project?

A Technically—technically only.

Q Would you explain what you mean by that?

A I hire all the people that he wants on this project, and I approve all expenditures.

Q When you say you hire all of the people he wants on this project, who is the "he"?

A Dr. Goldstein.

Q Who selects the personnel for employment on this [3955] project?

A Goldstein.

Q Have you ever turned down any individual selected by Mr. Goldstein, to—Professor Goldstein, to work on this project?

A Never, no.

Q Have full-time faculty members been employed to work on this project?

A Part-time. Full-time faculty giving part of their time.

Q On this project?

A Yes.

Q Who selected them for this project?

A Goldstein.

Q Who has terminated their services on this project?

A Goldstein.

Q Has this project been a source of summer employment for some of your full-time faculty members?

A I think so.

Q Who selected them for that summer employment?
A Goldstein.
Q All right.
Have research associates—I am not talking about assistants now, but research associates, post-doctoral personnel—been hired to work on this project?
[3956] A Yes, several.
Q Who has hired those people?
A Herb Goldstein.
Q Have technical and clerical employees been hired to work on this project?
A Yes.
Q And who has hired those people?
A Herb Goldstein.

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[3957] Q (By Mr. Kramer) I show you Employer's Exhibit 146-A through -D. This is the continuation proposal we have been referring to, is it not?
A Yes.
Q By the way, who prepared this continuation proposal? Who was responsible for it?
A Primarily Herb Goldstein. And whom he consulted and had work on it, I don't know. But it came from him to me.
Q He is the director of the project?
A Yes, director or principal investigator.
Q Who prepared the budget for this project?
[3958] A Herb Goldstein and others.
Q It's Herb Goldstein's responsibility, is it not?
A Herb Goldstein's responsibility.
Q He is director?
A Yes.
Q You told us this is a continuation of a project. I show you Employer's Exhibit 147 for identification.

(Document above referred to marked Employer's Exhibit 147 for identification.)

The document entitled "Curriculum Research and Development Center in Mental Retardation, FGS, Yeshiva University, 55 Fifth Avenue, New York, New York

10003, Continuation Proposal, January-December 1974," is this a continuation of the project that we have been discussing?
A It's a renewal of the '73, yes.
Q And on the second page—the first page, rather, of this exhibit is the application for continuation?
A Yes.
Q Signed by you?
A Yes.
Q And signed by Herbert Goldstein?
A Yes.
Q How much money was requested here?
A $880,000.
Q Was $880,000 received under this proposal?
[3959] A I think so. It went to the university.
Q Who was responsible for the administration of that $880,000 grant?
A Herb Goldstein, with the exception of the part of the grant that goes to overhead.
Q Approximately what part of the grant would go to overhead?
A Oh, heck, between 40 and 60 percent.
Q So the remainder, approximately a half a million dollars, would be subject to Herb Goldstein's administration?
A Yes.
Q Did Herb Goldstein select the personnel to work on this project?
A Yes.
Q Under this grant?
A Yes.
Q By this grant, I mean the one denominated, or covered by Employer's Exhibit 147.
A Yes.
Q Did he select faculty members to work on that project?
A Yes.
Q By that I mean full-time faculty members.
A To work part-time with him.
Q Yes; on the project.
[3960] A Yes.

Q Did full-time faculty members secure summer employment as a result of being selected on this project?

A Some did, yes.

Q Did Professor Goldstein have the authority to terminate those full-time faculty members?

A Yes. On his grant.

Q Right; whether in the summer or, for that matter, during the course of the year?

A Yes.

Q Did he have the authority, and did he in fact select research associates, technical employees, and clerical employees, further denominated in the proposal, to work in the center for mental retardation?

A Yes, further denominated in the proposal or substitutes for those listed here.

Q Now, you have referred to two documents now, Dean Gittler, Employer's Exhibit 4-A—146-A through -D and Employer's Exhibit 147, and to employees hired pursuant to both of those proposals.

Putting aside consultants, were all those employees employees of the university?

A Yes.

Q Were consultants also hired under Employer's Exhibit 147?

[3961] A If there are consultants, he hired them.

Q He established the rate they would be paid?

A Consultants, yes.

Q By the way, you are the dean of the school, are you not?

A Yes.

Q You have no assistant or associate deans?

A Not now.

Q You did not formulate these proposals, 146 and 147 for identification; they were formulated by Professor Goldstein; is that correct?

A Yes.

Q In preparation for this case, and at our request, did we ask you to dig out the files of the university the initial proposal for research and development center in

the curriculum for the mentally retarded, dated January 23, 1970?

A If you got it from me, then I dug it out.

Q Take a look.

A Yes, this had to come from me, because I was dean then.

Q All right.

MR. KRAMER: I'd like to have this marked as Employer's Exhibit 148.

[3962] (Document above referred to marked Employer's Exhibit 148 for identification.)

Q (By Mr. Kramer) I show you Employer's Exhibit 148 marked for identification, a document entitled "A Proposal for a Research and Development Center in the Curriculum for the Mentally Retarded," dated on the inside of the front cover as having been transmitted January 23, 1970, and signed on the inside of the front cover by T. Herbert Goldstein as the initiator, and by Jacob Levine as vice president for business affairs.

Is this the initial proposal of which Employer's Exhibits 146 and 147 are continuation proposals?

A I think this was the initial proposal.

Q This proposal is in the amount of $602,415?

A Yes.

* * * *

Q (By Mr. Kramer) If you will look on the front cover, Dean Gittler, you will see names Herbert Goldstein, director, and we are looking at Employer's Exhibit 148, then we have George S. Mischio, assistant director, M-i-s-c-h-i-o.

[3963] Who is, or who was, George S. Mischio?

A George Mischio, if I remember correctly, he was a member, full-time member of the faculty at that time, but primarily involved in this research project.

Q Who selected him for this project?

A Goldstein.

Q Warren E. Heis, development coordinator.

Who is, or was, Warren E. Heis?

A He definitely was selected by Herb Goldstein, because I don't remember who he is.

Q Gerald Melnick. He is entitled evaluation specialist. Was he selected by Professor Goldstein?
A Yes.
Q Do you know who Gerald Melnick is?
A No.
Q There is a Marjorie T. Fratkin, field coordinator, on the cover of this exhibit.
A I know who she is.
Q Who is Marjorie T. Fratkin?
A Now?
Q Then and now.
A Then I don't know. Now she is a student and his wife, and on the project.
Q He selected her for that project, did he not?
A Yes.
[3964] Q Lois Clerico, media specialist.
Do you know Lois—
A Louie.
Q Louie Clerico, media specialist.
A Yes.
Q I am told under Title 7 it doesn't matter.
Who is Louie Clerico?
A He is selected by Herb Goldstein to be the media specialist.
Q Did you play any part in the hiring of Miscio, Heis, Melnick, Fratkin or Clerico?
A Yes. I appproved them.
Q Other than approve them, did you play any part? Did you interview them?
A No.
Q The approval, I take it, was routine?
A Yes.
Q Professor Goldstein hired those people; is that right?
A Yes.
Q Subject to your routine approval?
A Because I agreed to a routine approval.
Q Right.
Now, all of these people that we just talked about were employees of the university, were they not?

A If by "employed by the university" is meant that they [3965]—they are put on university and Ferkauf payroll as every other employee at the university, yes.
Q And the university is in fact responsible, is it not, Dr. Gittler, for the work being performed under these grants?
A Yes.
Q The grants are made to the university?
A Yes.
Q And they are fulfilled by university personnel, are they not?
A Yes.
Q Dr. Gittler, you know Professor Goldstein?
A Yes.
Q You are generally aware of his activities?
A Specifically aware of his activities.
Q What percentage of his time devoted to university activities, inter alia, is spent in his capacity as director of curriculum research and development center in mental retardation?
A Now?
Q Now, as opposed—based on your observations.
A Technically, he is supposed to devote time to this project that's equivalent to the proportion of his salary that comes from this.
Q All right.
[3966] What proportion of his salary comes from this? That's technically?
A Yes.
Q We will take the technical end first.
A Actually he devotes almost full time to the center.

* * * *

Q (By Mr. Kramer) I am referring you to Employer's Exhibit 146-D under the heading "Administrative Unit."
Is Herbert Goldstein found there?
A Yes.
[3967] Q Listed as director?
A Yes.

Q What percentage of his time—
A Says 90 percent.
Q Does he also have summer employment under this grant?
A Yes.
Q He is called the director?
A Yes.
Q His function is to direct the activities under the grant, I assume?
A Yes.

* * * *

[3973] Q Dean Gittler, do you spend any time during your workday or work year for that matter seeing to it that the work of the Curriculum Research and Mental Development in Mental Retardation, the work described under these proposals, Employer's Exhibits 146 to 148, actually [3974] get performed?
A No.
Q Who is responsible for that?
A Herb Goldstein basically.
Q Do you spend any time during your work year recruiting personnel, be they consultant, be they lecturers, be they adjunct faculty, be they full time faculty, be they administrative personnel, to work on or in the Development Center?
A No.
Q Who does that?
A Herb Goldstein, as far as I know.
Q Have you ever initiated the termination of any employee, whether faculty, administrative, technical, clerical or consultant, working in the Center for Mental Retardation?
A No.
Q Who does that?
A The termination is initiated by Herb Goldstein and I just work through the papers, technically.
Q You have no Associate Dean?
A No.
Q And you have no Assistant Dean?
A No.

Q Do you have an Administrative Assistant?
[3975] A Yes.
Q Who is that?
A Edna King.
Q Does Edna King have anything to do with the employment or employee relations in the Curriculum Research and Mental Development in Mental Retardation?
A She just sends through the papers that come up.
Q Does anyone else on your staff have a role with respect to employment termination or employee relations that subsists within the Development Center and Mental Retardation?
A No.
Q Putting aside the Development Center, which we have just been discussing, have you at my request and in preparation for this case had prepared an exhibit listing the current grants, that means grants that are actually in effect as of this time at the Ferkauf School?
A Yes.
MR. KRAMER: Mark this as Employer's Exhibit 149 for identification.

(Document marked Employer's Exhibit No. 149 for identification, of this date.)

Q Dean Gittler, is this the list of current grants, Employer's Exhibit 149, to which we have just [3976] referred?
A As of December 31, '74.
Q Are those grants still in effect as of this time? Take a look through them.
A Yes.
Q So this exhibit, Employer's Exhibit 149, speaks as of today even though it is dated 12/31/74; is that correct?
A Yes.

* * * *

Q Let us focus on this exhibit, Employer's Exhibit 149.
How many of principal investigators listed on this exhibit are department heads or department chairmen, and would you name them first, please?
A The second grant on this first page, right now N. Gordon is listed as a principal investigator. Until this

semester he was both principal investigator [3977] and chairman and now somebody else is chairman of the department.

Q Would you continue, please?

A And the third one, Zach, who is a principal investigator there and is chairman of her department, and the fourth one, Miller, who is listed as principal investigator and he is chairman at present, and the fifth one, Eagle, is at present chairman and the principal investigator, and the last one on the second page, Brayer, is principal investigator and chairman of his department.

Q Are the grants listed on this exhibit, Dean Gittler, training grants or research grants or are some of them training grants and some of them research grants?

A Some of them are training grants and some of them are research grants.

Q Would you, as best you can, tell us which are research grants and which are training grants?

A On Page 1, the first one is a research grant. The second one is a research grant.

The third one is a training grant and the fourth one is primarily a training grant.

There may be some research involved there, but I'm not familiar with that aspect of it. It's primarily a training grant.

[3978] The fifth one is a training grant and the sixth one is a research grant and the next page, the first one is a research grant. The second one is a research grant and the third one—the third one is a facilitating grant. That means there is some money that he can use to the benefit of his department.

Q Would you tell us what a training grant is, Dean Gittler?

A A training grant is money given to the department through the principal investigator to enhance the training of students in a given program and facilitate the training of students in a given program and that is done by establishing Fellowships for students.

It is done by hiring teachers in the program and it is done by paying for clerical assistants in the program and that is what I can think of right now.

Q Would you tell us what a research grant is as opposed to a training grant?

A A research grant is given for a project that is submitted to an agency and the project declares what the applicant seeks to do by way of research performance and money is given for that research undertaking.

Q In preparation for this case, Dean Gittler, and at our request, did you have prepared an exhibit listing the personnel employed under the grant listed in [3979] Employer's Exhibit 149 with the exception, of course, of principal investigators?

A My office prepared that, yes.

MR. KRAMER: Mark that, please, as Employer's Exhibit 150.

(Document marked Employer's Exhibit 150 for identification, of this date.)

Q I show you Employer's Exhibit 150, marked for identification. Is that the list?

A Yes, to the best of my—yes, it is the list.

Q It speaks as of March 17, 1975?

A Yes.

Q I would like you to focus, Dean Gittler, on the first grant listed here, the Eagle grant, TO 1 MHOB 207 12 and focus on that grant.

Are you aware of what the purpose of that grant is in a general way?

A Yes.

Q Would you tell us about that?

A That is a teaching grant in clinical psychology.

Q Under the heading Faculty are listed six visiting lecturers.

What do those visiting lecturers do?

[3980] A They teach and supervise in a clinical, in a practicum course in the clinical program.

Q What does that mean to me in lay terms, Dean Gittler? What should it mean to me?

A It should mean that when the students have to have clinical work with patients in the clinical program, these are the people that teach them and supervise their clinical approach and process with the patient.

It is not limited to that. They also have discussions, they, meaning students, have discussions with the people listed here relative to clinical situations.

Q If you recall, Dean Gittler, at our last hearing we talked about how part-time faculty members were paid.

Are these six part-time faculty members paid in the same fashion as the ones you described previously on a per course basis?

A No, these people are paid on the degree of participation in the course, the number of hours and the number of students they supervise in the course.

Q Paid by whom, Dean Gittler?

A Paid from—paid by the University from this grant of money.

Q Are they part-time employees at the University?

[3981] A Yes.

Q Now, we have one additional title here under the Eagle grant, Adjunct Professor E. Tauber.

Do you know what Adjunct Professor E. Tauber does?

A He does the same thing as these others in the practicum course.

Q Does he do anything else, to the best of your recollection?

A I would have to look at my total list of part-time faculty. I don't remember whether he is teaching anything else.

* * * *

[3982] Q But he is an employee, Adjunct Professor Tauber, a part-time employee of the University?

A Yes.

Q He is paid by the University; is that right?

A From grant money.

Q But paid by the University?

A Yes.

Q By the way, does the check that he receives show that it is from grant money or is it a check like any other payroll check?

A I never saw the check but the payroll is the regular payroll that I make out for other faculty people.

Q Staying with the Eagle grant, as to the non-faculty employees listed there, Ruth Mason, and is Ruth Mason an employee of the University?

A Yes.

* * * *

[3992] Q Dean Gittler, did you interview any of the faculty, and there are seven names listed on the faculty on the Eagle grant?

Did you interview any of the faculty listed there before they were hired by the University?

A No.

Q Who selected those people?

[3993] A I get the recommendation from the chairman and my discussion with the chairman and at that time Norm Gordon was chairman, and it is my understanding at that time from him that the principal investigator in the training grant primarily selected those individuals.

Q Who is responsible for seeing to it that the grant, the training grant listed next to Professor Eagle's name is in fact completed by the University?

A How is that?

Q Who is responsible for seeing to it that this training grant, TO1 MHOB 207 12, is completed and performed by the University?

A The chairman and or the principal investigator.

Q Do you go around checking to see if that grant has been complied with?

A I haven't.

Q Does your administrative assistant go around checking to see?

A No.

Q Ruth Mason is listed on this page, this secretary.

Do you go around and see if Ruth Mason does her work the way she is supposed to?

A The only thing that my office does is check [3994] the time cards from all secretaries and that is all I do.

Q Who is responsible for seeing to it that Ruth Mason does her job?

A The chairman.

Q Who is that?
A Of the department. Now it is Dr. Eagle.
Q Who is responsible for seeing that that secretary performs whatever work is assigned on the grant?
A Right now, Dr. Eagle.
Q Let us turn to the next grant on this page entitled Miller (OEG O 742637). Are you generally familiar with that grant?
A Yes.
Q Would you tell us what is being accomplished under that grant?
A Well, the department has on its teaching faculty several individuals who are paid from the grant.
The grant money is also used for B. Schwartz, the administrative assistant.
The grant money is also being used for Kathleen McKaig, who is, as it states here, a coordinator of the Competency Base Teacher Education Program, which called for a self-evaluation in the department and for a report from the department.
Q Was Professor Miller the principal investi- [3995] gator under this grant at the time it was first issued to the University?
A No.
Q Who was the principal investigator?
A Bluma Weiner.
Q And Bluma Weiner occupied what position at the time in addition to being principal investigator under this grant?
A Department Chairman.
Q And is Bluma Weiner now the Department Chairman?
A No.
Q Who is the Department Chairman now?
A Marty Miller.
Q And he is also the principal investigator?
A Yes.
Q Is there a correlation between being principal investigator on this grant and Department Chairman?
A Now there is, there has been.

Q Would you tell us about that?
A That, I think, that since the grant has been in existence the chairman of the department has been principal investigator. Is that what you mean?
Q Yes, sir.

* * * *

[3996] Q I show you, Dean Gittler, Employer's Exhibit 151 marked for identification, a document entitled Application for Federal Assistance (non-construction programs) which appears to be signed by you.
Did you in fact sign this document?
A Yes.
Q Could you tell us in lay terms what it is?
A It is a training grant for the preparation of teachers to teach handicapped children.
Q Is this the application for the grant under which Professor Miller is currently the principal investigator?
A Yes.
Q This application is dated September 26, 1973; is that correct?
A Yes.
Q And it is signed by you?
A Yes.
Q Did you in fact make out this application?
A No.
Q Who was responsible for seeing to it that this application was in order for the substance of this application?
[3997] A Either Weiner or Miller or both.
Q But not you?
A No.
Q I show you what would be physically the fourth and fifth pages of this application, entitled on Page 4, "Justification for Budget Lines," then follow two pages of text.
Who prepared this Justification?
A Either Weiner or Miller. I don't remember who, or maybe both, but either both or either one of them.
Q But not you?
A No.

Q Not your administrative assistant?
A No.
Q Not the Vice President for Academic Affairs?
A It is the budget, the budget is submitted by Weiner and Miller to me and sent over to the Fiscal Office before the application is sent to Washington.
MR. SHECTMAN: We will stipulate that Professor Weiner and Professor Miller did in fact develop and complete this proposal.

* * * *

[3999] Q Has the Federal Government in fact been advised that Professor Miller has taken over the principal investigatorship on this grant from Professor Weiner?
A Yes, I think there was a communication to the Federal Government to that effect, to the Office of Education.

* * * *

[4000] Q Now, you have told us, at least insofar as this year and previous years are concerned, that the Handicapped Teacher Education Grant is a continuing one.
A Yes.
Q Is it a fact, Dr. Gittler, that an applica- [4001] tion is being prepared for additional funding or for supplementary funding, I guess is the better word, to cover the period beginning June 1, 1975?
A It was prepared, I think

* * * *

Is this the draft of the request for next year's funding?
A Yes, I think so, yes.
Q Did you prepare this draft?
A No.
Q To the best of your knowledge, by whom was it prepared?
A By the Department Chairman.
Q Who was that?
A Marty Miller.

[4002] Q Now, do you know whether a final application has actually gone forward to the government for next year?
A I think this application went to Washington.

* * * *

Q Dean Gittler, I see that in Employer's Exhibit 153-A, Dr. Miller describes one of his duties as Department Chairman, as concerning the direction of the Yeshiva Handicapped Teacher Education Project.
He is in fact the Director of that project, is he not?
A Yes.

* * * *

Is Professor LeLaurin a full-time faculty member at Ferkauf?
A Yes.
Q And is Professor LeLaurin tenured?
[4003] A No.
Q Is Professor LeLaurin tenure eligible?
A Yes.
Q Is a portion of Professor LeLaurin's salary paid from grants under Professor Miller's grant?
A Yes.
Q Who is responsible for seeing to it that Professor LeLaurin performs the services that are required under the grant?
A The Chairman of the Department is responsible for her performing her duties, given the type of people she has.
Q And if Professor LeLaurin were not to perform or does not perform her duties, would it be within the scope of the authority of the Chairman of the Department to remove her from working under the grant?
A The principal investigator, who in this instance is the Chairman, could remove her from the grant, but the principal investigator per se cannot remove her from the faculty, given her type of employment.
Q Now, were she removed from the grant today, Dean Gittler—
A No.
Q If she was removed from the grant today would she remain in the employ of the University?

[4004] A She could if I had the money or the department had the money.

Q And if it didn't have money or you did not have money then what would be the effect?

A The money would be used for her appointment and somebody else would have to go.

Q Or?

A Or if the other is kept and there is no money for her, she would have to go.

Q Do you know an Adjunct Associate Professor P. Reiss?

A Yes.

Q Would you tell us as best you know what Reiss does?

A Reiss is listed, I believe, as teaching a course in the Department of Special Education. I think he shares the course with somebody else.

Q Who is responsible for seeing to it that Reiss performs pursuant to the grant? That is, does his services that he is supposed to do.

A Pursuant to the department responsibility, the chairman is. He gets the money from the grant to pay for his—

Q Is he also responsible as principal investigator?

[4005] A His duties are supervised by the chairman of the department, his particular set of duties.

The money comes from a grant and the principal investigator is the one that recommended that he be paid from the grant.

Q Now, let us turn, Dean Gittler, to the non-faculty employees under the Miller grant.

Listed there is a Kathleen McKaig, and next to her name it says, "Coordinator, C.B.T.E. Program.

Would you tell us what the C.B.T.E. Program is and then what the Coordinator does?

A Albany now is requiring of a number of programs at the Ferkauf School to have in it, in addition to requirements for the degree, Albany has come through with a requirement that calls for what we refer to as Competency Base Teacher Education.

Each program that Albany wants a report on relative to C.B.T.E., each program had to submit or has to submit still to Albany a report of how they are instituting this competency base education phase of the program.

This called for working with school districts, with teachers in the school district, and what they call a consortium, and she was hired to coordinate the various aspects of that phase of the program in spe- [4006] cial education.

Q Hired by whom, Dean Gittler?

A What?

Q Hired by whom? Who hired her?

A By the chairman of the department.

Q And at that time the chairman was who?

A The chairman was Weiner. Whether she hired her, I don't remember, but either Miller and or Weiner hired her.

Q By the way, has the authority of the department chairman in this department changed any on account of the change in incumbent? In other words, you had Weiner and now you have Miller. Has the authority remained the same or has it changed, the authority of the chairman?

A By definition the chairman, it is the same.

Q Who is responsible for seeing to it that Kathleen McKaig does the work that she is supposed to do?

A The chairman of the department?

Q Do you supervise Kathleen McKaig?

A No.

Q Does your assistant?

A No.

Q Now, let us turn to Beatrice Schwartz.

What does Beatrice Schwartz do?

[4007] A Primarily secretarial work in the department. Maybe extended secretarial work.

By extended secretarial work, I think I mean something in addition to pure typing and filing.

Whatever else the chairman would ask her to do or maybe other members of the department would ask her to do, she would probably do.

Q Did you hire Beatrice Schwartz?
A No.
Q Who hired Beatrice Schwartz, if you know?
A Oh, that is way early in the game.
Q By the way—
A And that was the chairman of the department.

* * * *

[4012] Q Now, let us turn to the last grant on this page, the Zach grant, 5TO1 MH1110208.
Do you know Adjunct Professor Karp?
A Yes.
Q Do you know Adjunct Professor I. Belmont?
A Yes.
Q Did you interview Professor Karp before he was hired?
A No.
[4013] Q Who hired Karp?
A Dr. Zach.
Q Who hired Belmont?
A Dr. Zach. I approve it, they hired him.
Q Are both Karp and Belmont paid from grant funds?
A Yes.
Q As principal investigator under that grant and department head of the department involved, is Professor Zach responsible for seeing to it that both Karp and Belmont perform the work assigned to them?
A As chairman of the department.

* * * *

[4020] Dean Gittler, we are trying to clarify a point or two.
Excluding the persons named in Employer's Exhibits 144 and 145, which account for, I believe, the full time and part time faculty of the school, are there any other administrative personnel who would supervise these employees in a way that you do?
THE WITNESS: In a way that I do? No.
HEARING OFFICER: Do you have any assistants [4021] who would exercise your duties in your absence?
THE WITNESS: With my authority, no.

HEARING OFFICER: There are no assistant deans?
THE WITNESS: No.
HEARING OFFICER: Is there any other official of the college who would exercise a supervisory responsibility over these employees at the school?
THE WITNESS: Schoolwide, no.
HEARING OFFICER: Any question, Mr. Kramer?
MR. KRAMER: No, I think that makes the point that we are trying to make.
HEARING OFFICER: Let us continue.

BY MR. KRAMER:

Q Dean Gittler, do you take vacations?
A Intermittently.
Q About how many weeks a year?
A A week and a half.
Q Dean Gittler, have you also in recent months, and by that I mean the last eighteen months, been ill?
A Yes.
Q For protracted periods?
A Yes.

* * * *

CROSS EXAMINATION

* * * *

[4024] Q Dean Gittler, you have been Dean of Ferkauf since 1966; is that correct?
A Yes.
Q In the course of your service as Dean to the Ferkauf Graduate School have other University officials assisted you or worked with you in the administration of certain responsibilities?
A At the Ferkauf School?
Q Well, involving or affecting the faculty of the Ferkauf School.
A I used to have an assistant dean and she assisted me, and—
Q Does Vice President Sokol play any role in conjunction with you or on his own part that affects the interest of the faculty at the Ferkauf School?
A Yes.
Q Will you describe that role?
A He ultimately has to approve the budget that is submitted to him. That is the major role.

Q And will he at times suggest modifications [4025] for the budget to indicate to you policy in fixing the budget?

A Indicates policy to me in terms of what the maximum budget may be.

Q And will he take part in the settlement of any salary terms for faculty?

A In recent years, yes.

Q Has he in fact negotiated with your faculty over their salary terms?

A Not since he became president.

Q When was the last time he did do so?

A He never negotiated with the faculty. The previous vice president did.

Q And has Mr. Rabinowitz as a member of the Budget Committee also taken part in discussions with your faculty affecting their salary?

A Affecting the budget.

Q As the budget affects faculty salaries?

A Yes.

Q Has Vice President Fishman ever consulted with you and or your faculty with regard to academic matters affecting your faculty?

A Yes.

Q Could you describe such areas of concern?

A The most academic matters that Fishman—Dr. [4025] Fishman would want to perhaps have in mind to institute came from him to me and they always were matters of discussion with the faculty, and I cannot think of any instance where he actually instituted academic matters per se, indirectly.

Q Is it fair to say there is an interplay between your faculty and Vice President Fishman?

A Not very much. I interplay with the Vice President more than anybody else.

Q So then you are an intermediary of sorts of certain policies between Dr. Fishman and your faculty?

A Yes.

Q Will you deal with the Registrar of the University in any policies affecting the faculty at the Ferkauf School?

A During the six years I have never dealt with the Registrar dealing with matters affecting the school other than in conjunction with what we call the chairmen's group dealing with the Registrar.

Q But the Registrar will be involved with the chairmen's group or with faculty in setting a certain policy?

A About once a year.

HEARING OFFICER: Could you expand on the chairmen's group, please?

[4026] THE WITNESS: The chairmen's group constitutes a group that meets—of all the chairmen, and meets with the Dean on the average of about twice a month.

HEARING OFFICER: What do they discuss? What is the purpose of the group?

THE WITNESS: The chairmen's group considers about every matter dealing with the functioning of the Ferfauk School.

HEARING OFFICER: Could you give us an example?

THE WITNESS: The chairmen's group considered tuition increase. The chairmen's group considered the formula and the policy and came to the conclusion regarding workloads for faculty.

The chairmen's group considers basic potential curriculum innovations, frequently before it goes to the Curriculum Committee.

The chairmen's group considered, always considers, when there is something to consider, budget matters of the school.

Is that enough?

MR. SHECTMAN: This was brought out, Mr. Hearing Officer, in all due respect, at some length in direct examination by other witnesses.

MR. KRAMER: We have no objection to the [4027] record being made crystal clear in this regard.

HEARING OFFICER: Go ahead.

BY MR. SHECTMAN:

Q If we may stay with the chairmen's group for a moment, you indicated, did you not, that some of the

conclusions or positions that may be arrived at in the course of these meetings will thereafter be presented to the faculty as a whole in most cases?

A Some. Most of them. If the By-laws call for presentation to the faculty.

Q And do the department chairmen appear at those meetings as representatives of the faculty of their department?

A I considerthem as such, but as a group they represent the school as a whole.

Q And individually they represent their respective faculties?

A Yes, but not always in the discussion.

Q Does the Executive Council of the University make policy ever affecting the Ferkauf Graduate School?

A Yes, after things come up to the Council from various sources.

MR. KRAMER: I don't think the witness understood the question. How do you spell that council?

Q I am referring, Dean Gittler, to the body [4028] entitled Executive Council authorized under the faculty handbook.

Did you understand the question and answer accordingly?

A Yes.

Q Is it not true that the full-time workload of the full time faculty at the Ferkauf Graduate School is established or set pursuant to University-wide policy?

A No, the workload of the Ferkauf School was established by the chairmen.

Q You testified, did you not, that the workload is twelve credit hours or contact hours, or its equivalent, did you not?

A Equivalent, yes.

Q Is the standard for full-time employment twelve contact hours or its equivalent a University-wide policy?

A That was my understanding, yes, initially.

Q So then you are saying that the decision would be made at Ferkauf concerning the definition of the equivalent status?

A Yes, but in fact there is definition from that standard of twelve hours or equivalent by the Ferkauf School faculty and no flak.

* * * *

[4036] Q With regard to the By-laws of the Ferkauf Graduate School, you indicated, did you not, that there was a Faculty Committee that worked in forming these By-laws.

A I said I believed there was a committee that worked up these By-laws before I became Dean.

[4037] Q Do you know whether it was an Advisory Committee?

By Advisory Committee you mean what?

Q Did it make a recommendation as to these By-laws and submit it to someone for approval?

A Yes.

Q To whom were the By-laws submitted for approval?

A The Dean and the President.

Q Subject to the approval of both?

A I think so.

* * * *

[4038] Q You indicated that there exists approximately seven standing committees at the Ferkauf Graduate School. Do you attend most committee meetings?

A No,the administrative assistant attends for me just as a listener and takes notes sometimes.

Q And reports the results of those meetings back to you?

A Not always, but she should.

Q And do you personally ever attend any of these committee meetings?

A Yes.

[4039] Q Are you entitled to participate at those committee meetings?

A By participate you mean discuss?

Q Yes.

A Oh, yes.

Q Will you vote in any of those meetings?

A I don't know whether I can, but I never have.

Q Will you voice your opinions at those meetings?
A Oh, yes.

* * * *

Q Did the Curriculum Committee ever make a recommendation to drop the Educational Psychology and Guidance Department?
A The Department was never dropped. They never made such a recommendation, as far as I know.
Q To the best of your knowledge, they did not?
A No. Dropped the Department?
MR. KRAMER: What department was that?
MR. SHECTMAN: Educational Psychology and Guidance.
[4040] THE WITNESS: No department was ever dropped.
Q Did the Curriculum Committee ever make a recommendation to reformulate or otherwise restructure that department?
A No, except that there was a time when the Curriculum Committee evaluated all the programs in all the departments. I don't remember how far they got, but evaluating all the programs and those evaluations went to those respective departments where it was left up to the department as to what they wanted to implement.
Q Did the Curriculum Committee ever recommend to drop the Guidance part?
A No, it didn't; to declare a moratorium, not the curriculum.
Q Was such a moratorium declared?
A Yes, a moratorium, that we would not admit students.
Q And that was declared?
A Yes, by the department.
MR. KRAMER: What he means, was it effectuated?
MR. SHECTMAN: This can be subject to cross-examination.
MR. KRAMER: I don't know, Mr. Hearing [4041] Officer, that leaving the record as confused as it is—I know I am confused by the answer.

HEARING OFFICER: We have allowed clarification questions from both sides throughout the hearing. If the question is simply clarification—
MR. KRAMER: The question will be.

BY MR. KRAMER:

Q Do you mean the moratorium was effectuated that no students were admitted; is that what you were saying?
A To the gardens in the department.
MR. KRAMER: That is all I am asking.

BY MR. SHECTMAN:

Q You indicated that there was a Tenure Council, did you not?
A Yes.
Q When was the last time it met?
A The year before last, I think. I think in '72-73 or '73-74.
Q Can you recall more specifically?
A Probably '72-73. I believe that is correct.
Q Was this Council formed at your request?
A Yes.
Q Does it meet at your request?
A It meets when there are candidates to be [4042] considered for tenure and I become aware of it so I call the Council.
Q Who has the final authority in granting tenure?
A The President.
Q Do you have any veto powers over the considerations or recommendations of this Tenure Council?
A Yes.
Q Have you ever exercised such powers?
A Once.
Q And when was that?
A I don't remember the year, but I remember the individual. Do you want it that way?
Q Yes. What was that person's name?
A Allen Cohen.

Q Can you give us some approximation what year it was, to your recollection?

A Either '71-72 or '72-73.

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[4043] Q Has Vice-President Sokol or any other University administration official ever taken part in setting admission quotas to the Ferkauf Graduate School?

A Specifically?

Q Or in general.

A In general they have suggested several times to try to take in more students. Specifically, the departments determine the number and the programming, people in the department determine the number of students to be admitted.

Q Is that subject to the approval of the University administration?

A No.

Q Is it your testimony that that is absolute authority to set quotas, whatever they may be?

A Since I have been Dean the number of students [4044] that were admitted and the number of students that they wanted, the number of students that the department wanted to admit, rested with the department.

Q Have you ever made recommendations as to—

A Yes, I have talked to chairmen now and then and suggested that they try to take in more students if it is possible.

Q Have those recommendations been heeded at any times?

A Yes.

Q Are they heeded at most times?

A No. In fact, rarely heeded.

Q Are you on the Promotions Committee?

A Yes, I'm on all committees ex officio.

Q Do you personally normally sit with the Promotions Committee?

A No, not only, but most frequently.

Q Most frequently you do sit with the Promotions Committee?

A Yes.

Q And at those meetings do you voice your opinions?

A Sure. Opinions?

Q Yes.

A Not relative to candidates, but answer queries [4045] from members of the department, members of the Promotions Committee regarding data and facts about a candidate, and I voice opinion about criteria for promotions.

Q Is not the role of this committee to make recommendation to you for promotion?

A Yes.

Q That is pursuant to the Faculty By-Laws, is it not?

A Yes.

Q Have you ever refused to act on a recommendation of this committee?

A Yes, once.

Q And with regard to what person?

A Ruth Lesser.

Q Did this committee ever make a recommendation as to the promotion of Vera John?

A I think so, but I would have to look it up.

Q Didn't this committee recommend the promotion of Vera John?

A Yes.

Q Was Vera John ever promoted pursuant to that recommendation?

A No, because she resigned before I acted on the promotion.

Q How much time was that after the recommenda- [4046] tion from this committee?

A The end of the academic year.

Q When did the committe makes it recommendation for the promotion?

A In the spring, I think, of that year.

Q Did you indicate what action you would have taken?

A I indicated that I'm not going to act on it, not turn it down. I wasn't going to act.

Q Have you ever at other times indicated an intent not to act on a promotion?

A Yes. Not to act means abstain.

Q That is correct, and that would preclude the promotion for as long as you abstained, would it not?

A It is up to the President.

Q In fact, did that not occur with Professor Jablonsky?

A What?

Q Your abstention.

A Yes.

Q And was it not three years after the committee's recommendation for her promotion that she was in fact promoted?

A No, two years.

Q Are you sure of that?

[4047] A I think I'm sure.

Q You think you are sure or you are sure?

A To the best of my knowledge now, I think it is two years.

Do you want me to look it up? I will look it up.

Q Do you have those records before you?

A No.

Q If you abstained, does that recommendation go directly to the President?

A He is informed that I abstained vis-a-vis a given candidate.

Q Has he ever overridden your abstention?

A He consults with me and he did it with—he doesn't override an abstention. Gives the President freedom to decide without a recommendation from me. There is nothing to override.

Q In the case of Professor Jablonsky, however, when you abstained, did the President contact you on that?

A Yes.

Q What was the outcome of that discussion or conference?

A He gave her a promotion.

Q Two years later?

A I think so, effective two years later.

[4048] Q Was your recommendation to defer such a promotion?

A I made no recommendation.

Q Has there been any time you recommended a promotion when the President has not granted that promotion forthwith?

A No.

Q Pardon me?

A No.

Q So that in reality or in practice a positive recommendation from you has in fact meant an immediate promotion?

A That is not the whole situation. A positive recommendation from the committee and me.

Q You indicated that your budget is a major determinant in choosing a rank for incoming faculty.

A In the last few years.

Q Who ordered the freeze of your budget?

A The President, a few years ago.

* * * *

[4050] Q Dean Gittler, is the sabbatical policy which covers the Ferkauf faculty established pursuant to the faculty handbook?

A Yes, with a recent modification of it by the President. I think it is a modification.

The handbook may enable the President to modify it the way he did.

Q And those policies governing sabbaticals, govern the entitlement of your faculty to sabbaticals?

A Yes. It isn't automatic, though.

[4051] Q In the last few years did a Professor Alvin Atkins request a sabbatical?

A Yes.

Q Did you deny his request for a sabbatical?

A I don't think I denied it but I think I took it up with the department and raised a question of what would happen with the program if he were to go on sabbatical.

Q Did you take the final action in notifying him of his entitlement of, of a non-entitlement of that sabbatical he requested?

A I don't think it reached that point. I think that everybody saw that there would be enormous difficulties

involved, so either it was withdrawn—I don't remember writing him saying "Your sabbatical is denied."

Q You indicate department chairmen have access to secretaries, did you not?

A Yes.

Q And do all members or these full-time members of your faculty have access to secretaries?

A They have access to the departmental secretaries.

Q Can any faculty member direct a secretary to perform a certain function or a certain job?

[4052] A I think so.

Q If scheduling permits?

A And it is up to the chairmen, I think. I don't know where a faculty member goes if he wants work by a departmental secretary. I assume the faculty member takes it up, goes directly to the secretary or goes to the chairman.

Q When a new chairman is chosen does that chairman hire a new secretary automatically?

A They haven't.

Q Generally, the secretaries will continue from chairman to chairman to chairman?

A Yes, they have, I think, especially since the union came in.

Q And they will continue working with the department as it may exist or change from year to year?

A Yes.

Q You indicated there was a Council on Grievances and Appeals.

A Yes.

Q You indicated that was made up of senior members of the faculty.

A Some senior members of the faculty.

Q And five students.

A Yes.

[4053] Q What do you mean by senior members of the faculty?

A Those that have been—one, most of them have full professor status, and then, two, that they have been on the faculty. Nobody is on that committee that has been

on the faculty less than about half a dozen years, three, and by senior members—let me run through my mind.

I don't think anybody is on that committee who isn't tenured faculty. That is another definition of senior members.

Q And of those faculty members senior to any department chairmen?

A Yes.

Q How are department chairmen chosen?

A Recommendation from the department to me.

Q Is that usually by way of consensus or election?

A I don't know. It comes to me as a recommendation from the department through the chairman and whether they vote or they reach a consensus internally, I don't know.

Q But it would be one or the other?

A I should think so.

* * * *

[4056] Q Who ultimately notifies the part-time faculty member of his or her temporary appointment?

A When the department recommends X to teach course Y, in accordance with the money that is allowed for part-time faculty in the department, they get a letter from the Dean's Office saying, "You will receive so much and so much money for doing this and that."

Q Does that letter issue under your name?

A Yes.

* * * *

Q Who sets the prevailing rates for part-time faculty?

A I inherited prevailing rates and have changed them in a few instances only by increasing them.

* * * *

[4060] A Sure I'm familiar with the Welfare Committee.

Q Can you tell me what its purpose is?

A I'd be accurate if I had the By-laws in front of me.

Q I am asking now in practice rather than—

A In practice they were involved primarily in the following:

The Twelfth Committee was very much involved when I asked them in 1967 or '68 to set up a salary scale for the school, and they were very active in that. That was one of the major understandings.

I have asked a combination of the Welfare Committee and the Steering Committee to work on and give me their posture relative to tenure proportionality in the school and that is two actual involvements.

Those are the two major things that they have been involved in.

Q They do have authority, do they not, to consider such issues as sabbatical leaves, sick leave, life insurance?

A Yes, but whether they ever dealt with it, I don't know. I don't think so.

* * * *

[4063] Q In 1973, prior to the filing of any petition before the Board by Yeshiva, did Vice President Sokol meet with your Welfare Committee with regard to any pro- [4064] posal for salary adjustments?

A Not only he but the University Budget Committee met with the Welfare Committee.

Q Who was on that committee?

A Jack Rabinowitz and Sokol and Silverman. Silverman wasn't present.

Q Who was on the Welfare Committee?

A Oh, I don't know. I have to look it up.

Q Were discussions undertaken in those meetings, to the best of your knowledge, as to any adjustments of faculty salaries?

MR. KRAMER: I must object. What difference does it make what the discussions were at those meetings to this proposal or this proceeding or this petition?

HEARING OFFICER: First of all, was Dean Gittler there?

THE WITNESS: Yes, I was there.

Q And did the faculty present any proposals?

HEARING OFFICER: The objection has been overruled. It was overruled previously.

A Yes, they did.

Q Was there any action taken on those proposals?

A No, not to the extent of their request to.

[4065] I don't know whether the increments that the University came to was in answer to it. I guess not. I don't know. Requests for their demands.

Q Have department chairmen served on the Welfare Committee?

A Yes, I think so.

Q Who is currently the chairman of the Welfare Committee?

A If I knew you were going to ask me these things I would have brought all the memorandums, but I'm guessing now. I think the chairman of the Welfare Committee is Kasdon, I think, but I stand corrected.

Who is chairman?

Q Would it refresh your recollection if I informed you that Professor Miller is?

A I beg your pardon. Miller is chairman, I forgot. Miller has been chairman several years.

MR. KRAMER: I ask for a stipulation that he is also president of the Faculty Association.

MR. SHECTMAN: So stipulated.

HEARING OFFICER: I receive the stipulation for what it is worth.

Q And may those persons who are acting as principal investigators serve on the Welfare Committee?

A If they are full-time members of the faculty.

[4066] Q Are any part-time members of the faculty on the Welfare Committee?

A No.

Q Did the Welfare Committee proposal that we have referred to or any other Welfare Committee proposal you are aware of ever cover salary increments for part-time faculty?

A I don't recall a recommendation along that line. May have been. I don't recall.

Q The original salary schedule you referred to—

A Let me make a point about that recommendation.

Whatever came through as a report from the Welfare Committee at that time, I don't think I paid very much

detailed attention. I immediately called a meeting of the —immediately—I called a meeting of the University Budget Committee with the Welfare Committee and I didn't engage in any kind of discussion on what was being recommended.

Q What was the purpose of your convening the Budget Committee?

A I didn't convene the Budget Committee. I convened a Welfare and Budget Committee.

Q What was the purpose?

[4067] A To discuss what the Welfare Committee was recommending.

Q And would it be within the authority of the Budget Committee to grant or deny such a proposal?

A I think not. I think it would have to be taken up the line.

Q And that would be to whom?

A The President, I think.

Q The original salary schedule worked out by the Welfare Committee was approved by whom?

A By the then Vice President and the Vice President in charge of finances and the President.

Q Did that salary schedule include part-time faculty?

A No.

Q It included all full-time faculty?

A Yes.

Q Did it include department chairmen?

A As such?

Q Yes.

A Salaries as chairmen?

Q Yes.

A No.

Q They received the same salary pursuant to the schedule as any other faculty?

[4068] A By rank, yes.

Q By rank and tenure?

A No, by rank.

Q By rank and term of service?

A Yes.

Q Did it also include principal investigators solely in terms of their rank in terms of service?

A Yes.

Q Was that proposal for the salary scales approved by the entire faculty?

A Yes, at a faculty meeting.

Q Was it presented to the faculty by the Welfare Committee?

A Yes.

* * * *

[[4077] Q Who normally makes the final determinations as to tenure?

A The President makes the final tenure appointment.

Q And does he do so according to the tenure policy of Yeshiva University?

A Yes, but he can waive things. But this was my understanding and it is that now.

* * * *

[4082] Q Is that true for all grants, that the principal investigator will hire persons under the grant and be compensated by grant funds?

A As far as I'm concerned, I have accepted [4083] all recommendations from principal investigators.

Q So that in effect they do hire persons under the grant?

A Yes.

* * * *

Q Do principal investigators have the authority to hire consultants under grants?

A Yes, where the grant allows it.

Q And they may designate the consultant fees therefor?

A Yes.

Q And they may hire technical and clerical persons under that grant?

[4084] A Yes.

* * * *

[4090] HEARING OFFICER: Is there any recourse beyond the principal investigator's decision to discharge an employee?

THE WITNESS: Yes.

HEARING OFFICER: To what extent?

THE WITNESS: One or two appealed to me and I usually went along with the principal investigator. Sometimes I would ask the principal investigator to talk to me about his decision or his recommendation.

HEARING OFFICER: And you said this was one of two.

THE WITNESS: Who protested—

Q Have you ever countermanded such action on the part of a principal investigator?

A No. Principal investigators are always right.

* * * *

REDIRECT EXAMINATION

* * * *

[4098] Q The Budget Committee you referred to is [4099] a Budget Committee University-wide; is that right?

A The one I refer to. I consider my chairman the Ferkauf Budget Committee.

Q You said in response to a question, I am going to paraphrase it, in question with the department chairmen and how they speak at chairmen group meetings, you said that you consider them representatives of the department and as a group representatives of the school as a whole. And then you were asked if they were representatives of the faculty in the departments and you said that during the group meetings they didn't always behave in that fashion.

I would like you to explain that last comment, Dean Gittler.

A Yes. See, I work very closely with the five chairmen and we take up very frequently across the board school matters, not necessarily single departmental matters.

There are lots of those, and when we take up Ferkauf School-wide matters they talk and deliberate to this point. That is what I meant by they collectively engage in the deliberating on school-wide matters, not necessarily solely departmental positions.

What was your other point?

Q That was all.

[4100] A And the chairmen run the school. I'm not being facetious either.

* * * *

Q In connection with meetings of the Tenure Council, you testified on cross-examination that the last meeting, to the best of your recollection, was in '72-73. That means, does it not, Dean Gittler, that the committee did not meet in '73-74?

A That's right.

Q Why is that?

A Because there were not tenure candidates.

Q Are there any tenure candidates this year or is it too early to ask that question?

A No, right now I have no evidence of tenure candidates yet for next year.

* * * *

RECROSS EXAMINATION

* * * *

[4106] Q With regard to your full-time faculty, what is the lowest amount that assistant professor receives?

A Ten plus. Between ten and eleven thousand.

Q That is per annum?

A Per academic year, not per annum.

Q And an associate professor?

A I could have brought it. Associate professor, you jumped—wait—associate professor, around fourteen.

Q Full professor?

A Around 16,000, 15, 16,000, the lowest.

* * * *

[4120] Whereupon.

MANFRED WEIDHORN,

having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SCHECTMAN:

Q Professor Weidhorn, who is your employer?

A Yeshiva University.

Q Where are you employed?
A At Yeshiva College of Yeshiva University in Manhattan.
Q In what position are you employed?
A I am professor of English.
Q And what is your educational and professional background?
A I received a bachelor's degree from Columbia College and a master's degree from the University of Wisconsin and then a PhD from Columbia University Graduate School in English, and I taught for a year at the University [4121] of Alabama, and then three years at Brooklyn College and then I came to Yeshiva in 1963.
Q And have you been in the continual employ of Yeshiva University since 1963?
A Yes.
Q All right.
Were you appointed as a full-time member of the faculty?
A Yes, I was.
Q And by whom were you employed?
A By President Belkin.
Q In what form did you receive notice of your appointment?
A In a letter at that time.
Q That letter was from President Belkin?
A Yes.
Q And what rank of the faculty were you appointed to?
A Assistant professor.
Q And currently what rank in the faculty do you hold now?
A Full professor.
Q Are you a tenured member of the faculty?

• • • •

[4122] When I had put in the requisite number of years I didn't receive anything, so I went to see Dean Bacon at the time and I indicated—because, you see, the years that you have put in teaching elsewhere count, you have

a half—in other words, a full year elsewhere is worth half a year towards your tenure status.
And I went to see Dean Bacon at the time about this and he said that I didn't have to worry about tenure.
My wife, however, was working in advertising at the time and she said you'd better get a piece of paper.
So I went back and sometime thereafter I received a letter but I don't recall whether it was from the dean or from the president.
Q And when did you become a tenured member of the faculty?
A That was in 1968, I believe.

• • • •

[4123] Q Are faculty at Yeshiva College compensated according to a salary schedule?
A Yes, they are.
Q And do you receive any supplement to your place in that salary schedule for additional work?
A Yes, I do.
[4124] Q And what additional work do you perform?
A Six credits or contact hours.
Q How many contact Hours would you be required to teach to receive regular payment pursuant to the salary schedule?
A 12.
Q And you said you teach—
A Six extra.
Q And you receive compensation for those?
A Yes, I do.
Q Do you serve on any committees of the college or of the university?
A Yes.
I serve currently as chairman of the welfare committee.
And I have served on various other committees.

• • • •

[4125] Q And have you served on any other committees?
A The curriculum committee for three years and I was chairman of that for I think for the last three—the last of the three years.

Q And at what period did you serve on that?
A That must have been '67, '70, give or take a year.
Q Are you still generally familiar with the functions of the curriculum committee?
A Excuse me.
Maybe that was a little later than that.
I am not quite sure about the years.
Yes, I am familiar with the functions of the curriculum committee.
[4126] Q Could you describe the general subject matters considered by that committee?
A Well, I think that they—theoretically it is consideration of adoption of new courses or any question having to do with the curriculum.
But in practice or at least in the years that I have been there, I don't recall any review of the curriculum—

* * * *

[4129] A The—I was saying that the function of the committee was to consider proposals for courses and to consider the curriculum as a whole, but that in the years that I was there I don't recall any curriculum review and I remember at the time there was a faculty member who still is with [4130] us, who was a member of the committee and complained that we were asked to judge on courses without reference to any over-all curricular goal or guidelines or standards and that shouldn't the committee first consider some sort of a curricular goal and set it down and then judge courses accordingly.
And—but there was never any follow-up to this criticism, so the committee usually just dealt on an ad hoc basis with proposals for courses.
Q Does the committee still exist?
A Yes, it does.
Q And does the committee report to the faculty as a whole?
A It does.
Q And does that—is that through the faculty assembly or faculty senate?
A The—to the faculty assembly that I know of.

Q And who initiates proposals to the committee about new courses when you were—when you were on the committee and to the best of your knowledge?
MR. KRAMER: It has to be a showing of knowledge.
MR. SHECTMAN: If you have any knowledge.
MR. KRAMER: As to his knowledge as to who initiates proposals now.
MR. SHECTMAN: Let me ask the questions.
[4131] Q Who initiated proposals to the committee when you were serving on it?
A I wouldn't know that so much as chairman of the committee as someone who was involved in introducing new courses.
Because, you see—the new idea for a course usually first is considered by the department and then the division and then it comes to the curriculum committee but as a person himself involved with the giving of new courses, I know that at the beginning of it involves either the dean going to a faculty member or faculty member going to the dean with an idea for a course, and then that is presented to the department, the division, the committee.
Q And then ultimately the committee?
A Yes.
Q And that is the current practice?
A Yes.

* * * *

[4137] Around 1966 or '67, Professor Ernest Simone was then teaching the French Department, had newly arrived at the Yeshiva and whom I had known at college—at Columbia College, approached me with the idea of giving jointly a course in literature.
Whether he had broached this with the dean or the dean with him I don't know, but then we followed it up, put together a syllabus and went through the various—through the machinery in getting the course approved.
Q Will you describe that machinery?
A We went to the English department.
Then the division of humanities and then the curriculum committee.

Q And did the curriculum committee approve or reject that proposal?

A It approved it.

Then the course was such a success that we decided to follow it up with a second semester and we went through the machinery again, getting first the dean's approval.

[4138] Then the third occasion—

* * * *

A The third occasion was when Professor Edward Levy, who had newly arrived in the music department approached me and told me that the dean had suggested to him that he might want to give a course jointly with me in literature and music and that went through the machinery and was approved.

Q It went through the respective—

A Yes, the English department, the division and curriculum committee.

Q And again the curriculum committee either approved or rejected—

A Passed it.

[4139] And then there is a fourth—a fourth occasion when the dean suggested that I might be interested in giving a course jointly with a member of the history department, but nothing came of that.

HEARING OFFICER: When was this?

THE WITNESS: About three years ago, three or four years ago.

HEARING OFFICER: You were approached as a member of the faculty not as chairman of the committee?

THE WITNESS: That's right.

Q Are you familiar with any occasion on which the curriculum committee has approved a course and the course has not been taught?

A No.

Q Were you on the curriculum committee when a proposal for a parliamentary procedure course was submitted?

A I don't recall but I am familiar with that incident because—

Q How are you familiar with it?

A I wrote a memo on which I suggested that the committee had no useful function and should be disbanded.

Q What was the basis of that memo?

A Well, there was a course in parliamentary procedure which was approved by the speech department and then it came to the division of humanities—I don't recall how [4140] the vote went in that division but there the objection was first raised that this was not a course that properly belongs in a liberal arts college—

Q Were you at that division meeting?

A Yes.

It's sort of a how to course and it doesn't fit the educational philosophy of a liberal arts college.

I don't recall how the vote went but the same objection arose in the curriculum committee and they voted it down but the course was given anyway.

Q And under whose direction was that course given?

A Prof. Abraham Tauber.

And so I then wrote a memo—

Q Were you on the curriculum committee at that time?

A I am not sure whether I was or not, but I wrote the memo indicating—

Q To whom did you write the memo?

A I believe it was addressed to the senate, the faculty student senate, that since—whether the committee approves or disapproves the course, the course was given anyway, it was a waste of faculty's time, of the members of the committee to meet at all.

Q Was the course proposal for the parliamentary procedure [[4141] course after it was rejected by the curriculum committee passed on by the faculty assembly or faculty—

A Not the faculty assembly.

The faculty senate.

Q And did the faculty senate act on the course?

A I am not clear as to what happened there.

MR. KRAMER: Can we get the terms clear because there is a faculty—a senate and an assembly.

THE WITNESS: It's faculty assembly and faculty student senate.

MR. KRAMER: Where was this letter written?

THE WITNESS: It was addressed to the senate, the faculty student admission senate.

MR. KRAMER: Okay.

* * * *

[4142] Q You testified that you were on the welfare committee of Yeshiva College.

A Yes, I am.

Q What is your position on that committee?

A I am currently the chairman.

Q Who else serves on the welfare committee?

[4143] A Linn Tauber, Siev Chernowitz, Lainoff.

Q Are any of those persons department heads or division heads or senior faculty members?

A Yes, two or three area.

Q Which ones?

A Tauber is a department head of speech.

Chernowitz is of art.

And Dr. Siev is head of some department, I am not too sure what.

Q Does membership—strike that.

Are all of those persons full-time members of the faculty?

A Yes.

Q How long have you been on the welfare committee?

A Since my second year—well, yes, it's almost two years now.

Q And what is the role and function of the welfare committee?

A To take up matters of faculty remuneration, fringe benefits, and faculty—grievances that individual faculty members have.

Q Has or does the welfare committee at Yeshiva College work jointly with any other welfare committee?

A In 1968 it was—it began working jointly with the Stern College welfare committee.

[4144] Q And is it currently still working with the Stern College Welfare committee?

A Yes, it is.

* * * *

[4151] Q As president of the Yeshiva College welfare committee do you have control and responsibility over its records?

A Yes, I do.

Q And do you maintain those records?

A Yes, I do.

MR. SHECTMAN: I will offer to be marked for identification as Petitioner's Exhibit 107 a letter dated February 29, 1968 addressed to dear colleagues at Yeshiva College, and at Stern College.

(Document referred to marked Petitioner's Exhibit 107 for identification.)

Q I show you Petitioner's Exhibit 107 for identification.

Did you obtain this exhibit from the files and records of the welfare committee?

A Yes.

Q And as a member of the faculty in 1968 did you receive a copy of this exhibit addressed to the colleagues of Yeshiva College?

A I must have.

I don't recall.

Q Can you identify Irving Linn?

A He is a present member of the welfare committee.

[4152] He has been off and on it for many years.

Q And do you know Beatrice Friedlands?

A Yes.

She was until recently still a member of the Stern College Welfare committee.

Q And were the recommendations on page 5 of this exhibit accepted and implemented as the salary scales at Yeshiva and Stern College?

A All except item D.

* * * *

[4155] Q Did there come a time when those salary schedules developed and were established according to Petitioner's Exhibit 107, page 5, were frozen or taken out of effect?

A Yes.

Q Could you describe the circumstances?

A In the third year of 1970, '71, the salaries were frozen.

Q And were any promotional increments granted in the academic year 1971, 1972?

A I am not clear that there were even promotional increments in those days.

MR. SHECTMAN: I would like to offer as Petitioner's Exhibit 108 for identification a letter on Yeshiva [4156] University stationery dated December 31, 1970 to Dear Colleague, from Samuel Belkin, president.

(Document referred to marked Petitioner's Exhibit 108 for identification.)

Q I show you Petitioner's Exhibit 108 marked for identification.

Does this refresh your recollection as to the last question?

A Yes, it does.

Q Could you now answer that question?

A Yes.

The announcement of the freeze came in the year 1970-71 and the freeze took place in '71-72.

Q And did that freeze affect all salaries commenced for that year, '71-72?

A Yes.

Q And did it also freeze any promotions?

A That I don't know.

Q Let me call—

A Yes.

Well, it says so here, but whether that was—that part—whether that part was implemented, I don't know.

I know about the salaries being frozen.

• • • •

[4165] Q Did the welfare committees or the joint welfare committee of Yeshiva College and Stern College respond to that letter of president Belkin marked in evidence as Petitioner's Exhibit 108?

A They protested to the president.

MR. SHECTMAN: I offer for identification a letter dated December 8, 1970 to president Belkin from the—from Beatrice Friedland, chairman, faculty welfare committee at Stern College.

(Document referred to marked Petitioner's Exhibit 109 for identification.)

Q Did the joint welfare committees of Stern and Yeshiva College jointly and/or individually take a position with respect to the salary and promotional freeze?

A The—I understand that some presentation was made to the administration asking that this be considered only a deferral of payment and not an absolute freeze or cancellation.

[4166] Q And did you obtain a copy of Petitioner's Exhibit 109 from the business records of the welfare committee at Yeshiva College?

A Yes.

Q Did you obtain it from the files you keep of the welfare committee?

A Yes.

• • • •

[4172] Q Has the salary schedule for full time faculty at Yeshiva College been recently amended?

A Yes.

At our renewed negotiations in 1974 and new increases were promulgated.

Q Who took part in those negotiations?

A The welfare committees of Stern and Yeshiva College.

The business affairs vice president.

The deans of Yeshiva, Stern and Erma Michael Colleges.

And one or two other members of the administration.

Q Do you recall who those persons were?
A Mr. Ellenberg.
I am not sure, I believe Mr. Fishman sat in on one session.
Q And did these negotiations establish any increase for part time faculty?
A No.
Q Did they establish increases for all full-time faculty?
A Yes.
[4173] Q Did they establish any separate increases or increments for department heads?
A None that I know of.
Q For Senior professors?
A None.
Q Division heads?
A None.
Q Did any part-time faculty take part in those negotiations?
A Not as far as I know.
MR. SHECTMAN: I offer to be marked as Petitioner's Exhibit 110 faculty welfare committee proposal of October 5, 1974.

(Document referred to marked Petitioner's Exhibit 110 for identification.)

Q I call your attention to Petitioner's Exhibit 110 for identification.
Was this proposal accepted and implemented as a salary for the faculty at Yeshiva College?
A Yes.
Q Does it currently obtain?
A Yes.
Q And was it likewise accepted for the Stern College?

* * * *

[4174] A Yes.
Q Have matters other than salary been considered by the welfare committee in its most recent negotiations with the university?
A The question of pensions and fringe benefits was raised.

Q And has the issue of retirement also been considered there?
A The question of retirement has been in the air or has been considered in the past two years—few years, but in [4175] this current year when the committees raised the question of retirement, the vice president, Sokal, indicated that he was under legal constraints and therefore was not prepared to discuss the matter.
Q And with respect to pension issues curing the bargaining did vice president Sokal also take the position in that regard?
A He indicated that the whole question of pensions and fringe benefits had been turnel over the—turned over by the administration to some sort of an agency to review.
He therefore didn't want to discuss it—the matter, until the agency gave its report, which was eventually done.
Q Did vice president Sokal give you any indication as to who would have the final authority or who would have the authority to make any changes in the pension or fringe benefits package?
A Both in private telephone conversation as well as at one of the meetings between the welfare committees and vice president Sokal I raised the question of how this was—this was in the weight of the presentation by this agency—
Q When was this?
A In the fall of '74.
The agency presented a pension plan and I asked on [4176] two occasisons, vice president Sokal, whether there would be a vote of the faculty to ascertain whether this plan was acceptable and in both occasions he said that it is not the way—something like this can be done.
He said the final disposition would have to be made by the board of trustees.

* * * *

Q —does any faculty member serve on the board of trustees of Yeshiva University?
A None.

[4177] MR. KRAMER: By the way, our standing objection would go to those questions as well.

HEARING OFFICER: Overruled.

Continue.

Q You testified that the welfare committee considers certain individual grievances of faculty members.

Could you give us some example?

A About seven years ago—incidentally, in this salary settlement in 1968 there was some proviso for consideration by the welfare committee for inequities that might result inadvertently as a result of this new salary schedule, and three faculty members felt that they had grievances which they took to the welfare committee.

This is in 1968, '69.

Q Who were those members?

A Prof. Chernowitz, Siev and Weidhorn—

Q You were one of those?

A Yes.

Q Can issues other than salary or inequities in the salary or fringe benefits of individual faculty members be referred to the welfare committee?

A That seems to be the mandate that the welfare committee has.

[4178] They consider any sort of grievance that a faculty member has, such as promotion for example, a matter that the welfare committee took up on the past year.

Q You said there was a mandate.

From whom did that mandate come?

A Well, I mentioned in this 1968 document there was one proviso having to do with the grievances of the overall salary settlement.

And then at a meeting in the past year or so there was a restatement or extension of this mandate by the faculty assembly.

MR. SHECTMAN: I offer for identification as 111 the minutes of the Yeshiva College faculty welfare committee and it is dated October 30, 1974.

(Document referred to marked Petitioner's Exhibit 111 for identification.)

Q Is this mandate to which you referred to consider other individual grievances such as promotion—

A Yes.

Q —set forth in this document?

A The next to last item of the document.

HEARING OFFICTR: On what page?

THE WITNESS: Page 2.

[4179] Q And in fact the faculty approved that resolution at the assembly meeting?

A Passed unanimously.

* * * *

[4181] Q Does the welfare committee or any of its members take part in the formulation of the Yeshiva College budget?

A In no way.

* * * *

[4182] Q Has the welfare committee in the course of any of its meetings, in the course of any faculty meetings, made a request upon Dean Bacon to see the budget of the college?

* * * *

[4183] A The welfare committee has not.

Q Has a faculty member at a faculty assembly meeting in your presence ever made such a request?

* * * *

[4187] A As I said, there was a discussion of pressing the administration for some sort of salary increase.

One faculty member said that he had heard a rumor that dean Bacon had gone to the administration and asked for a salary increase for the faculty and had been told by the administration that he could give a salary increase but that he would have to take it out of his budget, the previous year's budget.

In other words, he would have to rob Peter to pay Payl.

[4188] Whereupon, a professor, and I recall the scene vividly, in mind, I can even identify the professor, Professor Arthur Hyman of the philosophy department said, well, we have Dean Bacon here among us, let us ask him

if this actually happened and the dean rose and said, he could not comment.

* * * *

[4190] Q Now, you heard testimony from Dean Bacon with regard to the effective faculty action, resolutions at assembly meetings?

Do you recall any example where the university administration has failed to carry out a resolution of the faculty from a faculty assembly meeting?

A Well, Dean Bacon has testified that the president, president Belkin has never vetoed anything which the faculty has passed and that may not be entirely correct because about seven or eight years ago the faculty passed as part of statutes or by-laws a section devoted to divisions and departments, and this section has never been approved by the president.

So that we have here a pocket veto in effect.

Q And that in fact was an amendment to the governing documents of the Yeshiva College faculty?

A I am not clear as to whether it was part of the documents or an amendment to it.

Q It represented a change or amendment to the constitution of the Yeshiva, in any event?

A Yes, it had to do with the governments of the school, yes.

[4191] Q Did the dean explain why no action was taken on that resolution?

A Yes.

He said that because the faculty vote approving this section was very close, something in the order of seven to six or some such close vote.

But the point is it had passed.

Q And to whom did he give that explanation?

A To me.

Q To what department do you belong at Yeshiva College?

A The English department.

Q And are there department meetings?

A Yes, there are.

Q Approximately how often?

A I'd say about—between two and four times a year on the average.

Q Can you tell us about the typical subject matter of those meetings?

A Decision may be taken on who will receive the prize for English in the graduating class at the end of the year or whether as in the case of last year, there was a student who had taken some sort of English literature proficiently examined five times and failed it, all five times whether he should be allowed to take it a sixth [4192] time and matters like that.

Q And how is action taken at these meetings?

A By consensus but when there is a difference of opinion then vote, straight vote.

Q Who is the chairman of this department?

A Dr. David Fleisher.

Q What is his role at the meetings?

MR. KRAMER: I must object.

If he wants to ask what Dr. Fleisher does, what he says, but it is conclusory as to his role.

HEARING OFFICER: Sustained.

Q In terms of what Dr. Fleisher says and does at the meeting, what is his role?

MR. KRAMER: Now—

Q In terms of what he says and he does.

HEARING OFFICER: What does Dr. Fleisher do and say at the meetings?

THE WITNESS: Well, he presents the particular matters to be thrashed out.

Q Will other faculty members within the department present on their own matters to be thrashed out?

A Oh, yes.

I must have on occasion.

* * * *

[4193] Q Does the chairman of the department have the right to veto the votes or consensus of the department?

A De jura, I don't know, but he never has so far as I know.

Q And how is department policy set?
A At these meetings.
Q Does the department chairman of the department have [4194] authority to set department policy outside of these meetings?
A As far as I know he doesn't.

* * * *

Q Do members of the university administration as a matter of course attend department meetings?
A No, they don't.
Q Do you recall the last time a member of the administration did attend such meeting?
A Dean Bacon once attended—I forgot the occasion, but I believe there was a discussion on exemption examination or something like that but attended only for that portion of the discussion, that portion of the meeting devoted to that particular question.
Q Was he then asked to leave the meeting?
A No. Just left on his own.

* * * *

[4196] Mr. Shectman, your witness.

BY MR. SHECTMAN:

Q Is there a sabbatical policy promulgated for the faculty of Yeshiva University?
A Yes, there is.
Q And where is that sabbatical policy defined?
A In the faculty handbook.
Q Has there been any change in that policy at Yeshiva College?
A Well, it would seem that in the last two years on the basis of questioning that I have done that an option has been taken away from faculty members which amounts to a de facto suspension of sabbaticals.

The choice used to be between taking a half a year at full pay or a full year at half pay.

As far as I have been able to ascertain no one on the past two years has gotten a half year at full pay and one faculty member at least in Yeshiva College and another one in another school that I have spoken to were

told [4197] that they could only take it at full year at half pay.

And there was no—the faculty was in no way—played no role in this change of policy, wasn't even informed of it in any sort of document.

* * * *

CROSS EXAMINATION

* * * *

[4208] Q On your direct examination did you not tell us that as a result of the problem over the scheduling of parliamentary procedure courses you wrote a memo to the faculty senate, or words in substance to that effect?
A Yes.

But I also recall that I mentioned in this memo some other item of—which I had been shifted from one committee to another without ever being considered and—in other words, I was making several points in that one memo.

Q When did you send that memo?
A Well—
Q You can give us an approximate date.
A Right.

[4209] It must have been let's say between three and five years ago.

* * * *

MR. KRAMER: We would request that the witness—that he produce through counsel a copy of that memorandum should it be within his possession, either in his files, personal files or business files.

HEARING OFFICER: Your request is noted.

MR. KRAMER: I assume that will be produced by you, Professor Weishorn, if you have it—

THE WITNESS: Yes.

MR. KRAMER: —through your counsel.

THE WITNESS: Certainly.

MR. SHECTMAN: If Professor Weidhorn has that memorandum in his possession, we will comply with the request.

On the other hand, we will report whether he does [4209a] or does not have it and otherwise the university, indeed Dean Bacon besides Mr. Kramer might also review

the files of the faculty senate in that period, and might be able to also come up with that document.

HEARING OFFICER: If it exists, it will be produced—

MR. KRAMER: Rather than conduct a file search, we are entitled if the witness has mentioned the memorandum and if he has the memorandum and that the witness produce it for us.

HEARING OFFICER: Counsel stated if he has it he will produce it.

MR. KRAMER: If you don't have it, Mr. Schectman, call me and let me know and we will conduct a search for it.

Q You sent that memorandum to the senate did you not?

A Yes.

Q Did you then take that memo up with the faculty assembly?

A No, I did not.

Q So that that course would have been available to you?

A Yes.

Course meaning course of action.

A Yes.

Q You were a member of the curriculum committee for [4210] three years were you not?

A Yes.

Q You were the chairman for a year?

A Yes.

* * * *

Q No.

I would like my question answered.

Did you testify on your direct examination, as I believe my notes show you did, that you did not know what the purpose of the curriculum committee is—was?

A No, I believe I gave the purpose of the curriculum committee, namely, to consider proposals for courses and to consider a—questions of the curriculum.

HEARING OFFICER: Off the record.

* * * *

Q By the way, on your direct examination, you testified about the parliamentary procedure course.

A Yes.

[4211] Q Are you aware of what the dean's position was with respect to that course?

A You mean now or then?

Q Then.

A No, I don't believe so, at the time.

Q You are now?

A Yes.

Q Would you tell us what the dean's position was from the knowledge you now have?

A He was opposed to it on the grounds that it swayed the curriculum committee.

Q Nevertheless, the course was given, was it not?

A Yes.

Q After your memo went to the faculty—to the faculty student senate?

A I don't recall the sequence of events.

The memo was not written to prevent that course from being given, and it may have been written at a later time—

Q Well, to see when you wrote it—

A Yes.

Q In any event, you did not appeal to the faculty assembly?

A No.

Q As to the course being voted down?

[4212] A No.

Q They would have had the authority to vote that course down, would they not?

A Yes, I guess so.

Q By the way, it is unclear in my mind whether this was a new course, this parliamentry course or whether this was a course that previously had been in existence and that the professor had given it, Prof. Tauber, I believe his name was?

A Yes.

Q Wanted to continue, do you have a recollection on that score?

A As far as I know it was a new course.

Q And the date of this was—when did this take place?
A I am not too clear on it.
Q Approximately.
A I would say between three and five years ago.
Q Now, you told us that in 1966-67 you effectively introduced a new course in cooperation with a Professor Simone—
A Yes, the course was introduced in 1968. The first negotiations began '66-67.
Q In any event, the date you used on your direct was '66, '67.
[4213] A No, I said that's when we first talked about it.
Q And the course was put into effect in September of 1968?
A Spring of '68.
Q Now, you further testified that the course was a success and that you decided to, on the basis of that success, proceed to give another course, is that correct?
A Related to it, yes.
Q By the way, what was the name of the first course?
A The rise of humanism in mideival and renaisance European literature.
Q The second course that grew out of it?
A The decline of humanism in modern and western literature.
Q Now, would you tell us what was the first thing you did which brought this course into being, the first act in the step—among the steps that this led the course to be—to come into being?
A The second course?
Q Yes.
A Prof. Simone and I drew up a reading list and then we took it to the dean.
Q What did you say to the dean and what did the dean say to you?
[4214] A That he encouraged us in every way.
Q I didn't ask you for a conclusion.
A We said—
Q I asked you to tell us what happened at the meeting.

A I have no recollection of the exact wording but I recall that we reported to him on—the success of the course, it's popularity with the students and the great stimulation everybody derived from it and therefore we wanted to extend its scope by adding another semester to it.
Q By dealing with the decline?
A Yes.
Q Is that correct?
A Yes.
So that the students should know how it came out.
Q Now, did you get a letter from the dean that said you could give that course?
A I don't recall getting anything written.
Q You didn't get a memo, you didn't get anything in writing that you could give the course?
A Not that I recall.
Q In fact, you continued did you not to use the other procedures that are available to get the course approved?
A Well, once we had the dean's approval we went to the [4215] English Department.
Q Were you encouraged by the dean or did you have his approval—which did you have now?
A Oh, we were encouraged.
Q The dean is a scholar, is he not?
A Yes.
Q In his own right?
A Yes.
Q What is his field of specialty?
A Linguistic and literature.
Q And this course was a course in what?
A Literature.
Q In the decline of humanism—
A Tracing an idea in literature.
Q And you brought the reading list to the dean?
A We did.
Q And you discussed the reading list with the dean, did you not?
That is one of the reasons you brought it there, I assume?

A Yes, but I think we discussed the general idea, not the merits or demerits of the reading list.

Q And the dean encouraged you to proceed further?

A That's right.

Q You have no letter of approval from the dean, do [4216] you?

A Not that I recall.

Q Where did you proceed further to?

A The English Department.

Q What did you do in connection with the English Department?

A We had to justify the course.

Q Say that again.

A We had to justify the giving of the course.

Q I see.

Now, how did this take place?

A Through a lot of give and take and we had to respond to criticisms from members.

Q Was there a meeting of the English Department on this subject?

A Yes.

Q And was there ultimately a vote taken with respect to whether the course should be recommended to the division?

A Yes.

Q Was that vote affirmative?

A It was.

Q Where did you go after that?

A We went to the division.

Q What do you mean by that?

[4217] A Well, once the proposal had been approved in the department the next step in the machinery is the difference of fine arts humanities and I forget the full title, approval has to be obtained there.

Q How did you go about getting that approval, as best you can recall?

A A meeting was called of the division members and we presented the syllabus, and again answered possible objections or criticisms.

Q Was it approved?

A Yes.

Q Was there a vote?

A Yes.

Q What happened after that?

A Then we went to the curriculum committee.

Q By then, I assume you were no longer chairman of that committee, or were you?

A I may have been on the committee at the time. I am not sure now.

Q All right.

Tell us what transpired in the curriculum committee?

A The same thing.

We had to justify the giving of the course, present the syllabus and answer any questions.

Q Was there a vote in the curriculum committee?

[4218] A Yes.

Q Was it approved?

A It was.

Q Then where did that report of approval go?

A I think that was the end of the line.

I think then the course was given.

Q Isn't it a fact that the curriculum committee reports to the faculty senate?

By that I mean, the faculty student senate.

A Well, at that time I am not sure whether there was a senate yet or it may have been in the process of formation.

Q Isn't it a fact that the curriculum committee is part of the faculty assembly?

A Yes.

Q And has the obligation of reporting to that assembly?

A Yes, it does.

Q But you don't recall whether they reported with respect to your course?

A Because that's just a matter of routine.

Q Except in the case of parliamentary procedure course you mentioned where apparently it was not a matter of routine, is that right?

A Well, I don't recall that this course was reported [4219] to the faculty assembly, the parliamentary procedure course.

Q That was reported to the faculty senate, was it not?
A Well, by that time the senate had come into being.
Q And there was a full dress debate I would assume on your memo about that course and the circumstances surrounding its being given?
A That's hearsay.
I wasn't present at the senate meeting.
Q Where your own memo was discussed?
A In that case I understand it was read aloud and that—this is hearsay, that the dean said it was a week letter, it should be disregarded.
Q Did you seek an opportunity to attend the faculty senate meeting?
A No.
Q And you weren't there to hear whatever the dean may have said?
A I wasn't.
I thought I said all I had to say in the memo.
Q Prof. Tauber wanted to give the course, did he not?
A Yes, he did.
Q And he presented his points of view at the faculty [4220] senate meeting, did he not?
A I would assume so.
Q And his view prevailed, did it not?
A That is my understanding.
Q And the university then gave that course?
A Yes, it did.
Q With respect to this memorandum did you take an appeal to the faculty—strike that—to the university review committee?
A I didn't take this matter either to the assembly or the faculty review committee because—
Q I didn't ask why.
A No, I did not.
Q The third course you dealt with on your direct examination was—involved Prof. Levy, I believe.
A Yes.
Q What department was Prof. Levy in?
A He's the chairman of the music department.

Q All right.
Now, what course did you and Prof. Levy seek to give jointly?
A It was called structure and literature and music.
Q All right.
When was it first given?
A Either the spring of—I am not sure now—it's [4221] somewhere—I'd say '70, '71, '72, somewhere around there.
Q Could you tell us at the beginning the steps that were taken and what transpired bringing that course into being?
A Well, Prof. Levy approached me and said that he had talked to the dean about giving of an interdisciplinary course and the dean had suggested that he come and see me, and so we then began to talk about syllabus and structure of the course.
And then we went through the same process of going through—
Q The department?
A Well, first we took the syllabus to the dean, and then the department and the division and the curriculum committee.
Q Did you meet with the dean in his office?
A We did.
Q What did you say to the dean and what did he say to you and Prof. Levy?
A Well, again I cannot recall any actual words but I do have the impression again that he encouraged us.
Q He didn't write you a letter of approval, did he?
A Not that I recall.
Q Or a memorandum of approval?
[4222] A I don't recall any.
Q In fact, Prof. Weidhorn, with the exception of experimental courses during the university term, the dean would not have authority to approve a new course, would he?
A I don't know.
It seems that every course that I know about always begins with the dean.

Q You spoke to the dean about the course in music, did you not?
A Yes.
Q He encouraged you, did he not?
A Yes, he did.
Q But he didn't give you approval, did he?
A It seems to me that encouragement is more than approval.
Q That would be for the reader of the record to determine.
Can you produce any memo, letter, document showing approval—
MR. SHECTMAN: That is argumentative.
Q —with respect to any of the three courses that we just discussed?
MR. SHECTMAN: I will object to this question as argumentative.
[4223] HEARING OFFICER: He is requesting documents. I don't see the argument or point involved.
MR. KRAMER: We have none, I must tell you.
MR. SHECTMAN: And the witness has answered that he doesn't recall receiving any writing.
HEARING OFFICER: Let him state he can provide no such documents.
MR. KRAMER: He went to the department, there was a meeting of the department, was there not?
THE WITNESS: Yes.
Q What happened at that meeting?
A Well, I recall that meeting because I thought that some of my colleagues began to redo the course for us but it was approved eventually.
Q Was it discussed in the meeting whether the course would be attractive to students?
A I know that that objection had been raised about some of the courses in the curriculum committee, one faculty member complained about proliferation of courses.
Q Proliferation of courses that had small number of students?
A No.
I mean, you can't tell before hand, whether, you know, what the turn out will be.

[4224] But I don't recall whether that question of whether it would be attractive to students came up in the department.
It may have but I just don't recall.
Q Each course that is proliferated, I don't know that is the right word, but since you have used it describing this faculty member's comments, I will use it here, each course that is proliferated becomes part of either a part-time faculty member's work load, regular work load or a full-time faculty member's overload, or the overload or full time work load of a faculty member in another school working part-time in your school, isn't that correct?
A I don't know.
Some of these courses seem to be the property of the people who originate them and when they are not around because of sabbatical or whatever the course is not given.
So if I understand your question—
Q I think my question is self-explanatory.
Isn't it a fact that with each course proliferated there has to be a faculty member to teach it, it becomes part of his full-time or work—part-time work load or his overload?
A I guess, yes. I don't know what you mean about part- [4225] time work load.
Q Now, you told us about a fourth course.
A Well—
Q Would you tell us what field of endeavor the fourth course was?
A It never got off the planning board.
Q I didn't ask you that.
What field of endeavor—
A You call it a course and it wasn't a course because it was never given.
Q What field of endeavor was it—
A It would be history and literature.
Q It was to be given by you together with someone else?
A Yes.
Q Who was the someone else?
A Robert Goldberg of the history department.

Q When would you have liked to have implemented that course had it been given?

A Well, we never got around to talking about it.

Q You never—

A I stayed—

Q You never got around to talking about it?

A Mr. Goldberg and I did.

Q The two of you talked about it?

[4226] A The dean and I talked about it.

Q When was this, by the way?

A About two years ago, more or less.

Q The dean and you talked about it where?

A In his office.

Q All right.

What did you say to the dean and what did the dean say to you?

A Well, the dean said that Mr. Goldberg is a very intelligent fellow and that I might be interested in giving a course jointly with him along the lines of the interdisciplinary courses I had given with members of other departments.

Q What did you say to the dean?

A I think I said I would look into the matter.

Q How long did this meeting take place?

A Oh, just a few minutes.

Probably part of a meeting on other matters.

Q You don't have a clear recollection of what was said at this meeting, do you?

A Well, I do have the gist of what I just mentioned.

Q What did you do after this very brief conversation with the dean?

A I thought about it and then decided that for two reasons I wasn't going to follow it up.

[4227] Q And you didn't?

A No, I didn't.

Q Did he issue a letter of reprimand?

A No.

Q Did the dean send you a memo directing you to follow it up?

A No.

Q No adverse consequence came to you by virtue of not following it up?

A No.

Q You are not now a department chairman or senior member, are you?

A No, I am not.

Q At no time in your sojourn at Yeshiva College have you been a senior member of a department or a department chairman?

A I have not.

Q You are not a division chairman either?

A I am not.

Q You have been a member of the English Department throughout your sojourn at the school?

A Yes, I have.

Q You told us that the English Department has departmental meetings two to four times a year?

A On the average, yes.

[4228] Q Where are these meetings held?

A In the faculty lounge.

Q Now, I would like you to tell me, focusing on the last three years and this year, which is 1974,-75 school year, and two scholl years prior to that, on the subjects that were dealt with, as best you can recall, in the Enlgish Department meetings—I don't want illustrations, I want you to tell us as many things as you can remember and put aside for purposes of this question new courses, which you already told us that new courses are discussed in the English Department and voted upon at their meetings.

A The selection of students for prizes at commencement.

The policy or implementation of exemption examinations to be given for students who might qualify for exemption from freshman composition.

This one case that I mentioned of a recent graduate who kept on flunking some sort of comprehensive literature test, whether he should be allowed to take it one more time.

And from time to time we have what I would suppose would be called wrap sessions, mainly with reference to

our problem—the problems we confront in trying to each the students how to write in freshman composition.

Q Anything else dealt with in the last three years in [4229] these departmental meetings putting aside new course offerings?

A Oh, yes.

Sometime a question comes up of students taking a course elsewhere, whether because he is a transfer student or he takes a course during the summer session at some other school, whether we are to give him credit for that course.

Q Given credit for that course, the student would not have to take these credit hours reflected in that course?

A Yes.

Another thing we discussed is the question of what students—whether a student would have taken the Clap exam, the college level—I forget, the EPN—if they get a certain mark, whether that would exempt them from having taken more freshman literature and we have had discussions on what kind of mark would be all right or whether the exam itself is of any value.

Some faculty members contend it is not really probing enough.

Q You have told us that in addition to this long list you have given us that the department has a function with respect to establishing new courses, right?

A The depart-ent doesn't establish them. It passes [4230] on them.

Q I said it has a function--

A It has a role to play.

Q In establishing new courses?

A That's correct.

Q And you have described that function?

A Yes.

Q And Dean Bacon has described that function?

A Yes.

Q All right.

Now, should it arive that a member of the department feels that a course should be eliminated, it is not serving

a useful purpose, does the department have a function in that regard?

Would -his simply be mandated by Dean Bacon?

A Well, such a case did arise.

The freshman compsoition used to be required two semester course and a few years ago the second semester was knocked off.

Q What are the facts and circumstances surrounding that?

A Well, I believe it began with the students, which means it probably was brought up first in the senate and then came to the department, the division and the curriculum committee, I suppose.

[4231] And then it was brought up in the full faculty assembly.

Q Did you attend the departmental meetings with respect to the elimination of the second semester?

A Absolutely.

Vehemently I was opposed to it.

Q And voted no?

A And spoke out almost alone against this.

We voted no.

Q And the department voted yes?

A I think it did, yes.

Q There was no consensus here, there was a vote?

A That's right.

That was the case of a vote, yes.

Q And then the division met on this issue, is that right?

A Here my recollection is a little hazy but I suppose it must have.

Q And then finally the curriculum committee and the faculty student senate?

A Well, I think it began in the senate.

It may have ended up there but it did go to the full faculty assembly.

Q And it was approved there?

A That's right.

[4232] Q And the full faculty assembly is a faculty body in which students do not have a right to vote?

A That's right.

Q What was the dean's position with respect to this issue?

A I frankly don't know.

Q Did you attend the faculty assembly meeting at which this issue was discussed?

A Yes, but the dean normally strikes a posture of not intervening—

* * * *

[4234] Q At any time have you as chairman of the welfare committee of Yeshiva College requested from Dean Bacon the budget for his school?

A I have not.

Q At any time have you made—has any faculty member gotten up on the floor of the faculty assembly and [4235] requested the budget for Yeshiva College?

A I don't recall any such incident.

Q At any time has any faculty member gotten up at a faculty assembly and asked to specify line or item number in a budget of Yeshiva College?

I am talking onoly as to the dean.

A I don't recall any such incident.

Q You do recall, however, that the dean said he would not comment on whether the rumor was true or not?

A That's right.

Q Then it is correct to stated, based on your experience that the dean of your college, Dean Bacon, has never refused to discuss any budgetary item or the details of any budgetary item or appropriation, is that correct?

A Well, the dean testified that the budget is not available to the faculty.

MR. KRAMER: I would like to have my question read back and the witness answer it.

A To the best of my knowledge it is correct.

Q He did however refuse to discuss the rumor that we have discussed, is that correct?

A A rumor involving the budget.

* * * *

[4240] Q Can you give us any other time, putting aside the question of whether the deletion from the faculty constitution of the references to the departments and department chairmen, putting that aside, can you give us any other example of a time when a recommendation approved by the faculty assembly was vetoed as you put it by the president of the institution?

We are talking about now the last seven or eight years.

This is the time that the assembly has been in existence.

A Well, about a year and a half ago the faculty addressed a letter to the president, Belkin, on the retirement question and he never even rsponded.

Q Did the faculty assembly pass on a resolution on that question?

A Absolutely.

Q Any other time now in eight years that he has by your testimony vetoed an action of the assembly?

[4241] A Actually there were several resolutions, at least three that I know of on this retirement question, and they—the first two were completely ignored.

Q What happened to the third one?

A The third one just the other day we received a letter from President Belkin in which he says that the faculty's position is baseless.

Q So twice he disagreed.

Any other times?

A No.

The first two times he didn't respond at all.

Q Give us any other examples of his use of veto power in eight years.

A I don't recall at the moment.

Q There were two instances, this question of retirement of a particular faculty member I assume —

A No, on the general retirement question, the interpretation of it.

Q And the question of the enabling document itself, which was the constitution?

A Yes.

Q In eight years?

A Yes.

Q You tell me that there are six to ten faculty meetings a year.

[4242] A On the average, yes.

* * * *

[4245] Q Now, you told us that seven years ago the welfare committees dealt with grievances of faculty members my notes show.

Further, that three faculty members were involved, Prof. Chernowitz, Prof. Siev and Prof. Weidhorn, that's you.

A Yes.

Q Is that right?

A Yes.

Q What was the nature of the grievance that you had?

A I was promoted from assistant to associate professor at the same time that this general salary increase went into effect and as a result I received only the general increment that was given to all associate professors with no bonus for the promotion.

[4246] Q A salary problem?

A That's right.

Q Where did you go with that problem?

A To the welfare committee.

Q What did the welfare committee do with it?

A I brought them a letter—well, first I spoke verbally and the chairman told me to write a letter and for the next two years the matter was more or less hanging in the fire and I was told verbally by the chairman of the welfare committee that Mr. Levine who was then vice prsident for busines affairs had verbally conceded that thre was a grievance here, and it would be corrected, but this is now paraphrasing the remarks of the welfare committee chairman.

He wouldn't put anything in writing.

And then about two or three years later—this is two or three years after I raised the issue, Dean Bacon entered into the picture, called me in to his office and said that he thinks that there is no merit to my charge,

but that he would be willing to get me $300 raise if I would be willing to drop the thing.

And on thinking it over, I decided I would accept that proposal.

But he asked that I write a memo indicating my acceptance of that.

[4247] I indicated in the memo that I understood that $300 bonus to become part of the base pay and to carry over in the following years when the following year came, that $300 had disappeared and when I went to see Dean Bacon he said there must have been a misunderstanding and that was the end of that.

* * * *

REDIRECT EXAMINATION

* * * *

[4256] Q Did the faculty assembly approve by resolution the salary scedule, salary rates that were in effect for the academic year 1971-1972?

A Well, it had approved the original schedule in 1968.

Q And that approval was by faculty resolution, was it not?

A Yes.

Q And that was at a faculty assembly meeting, was it not?

A Absolutely.

Q And the president overrode that resolution and rescinded any paymens and increases in salary for that year, did he not?

A In 1971-72, yes, that's right.

Q On cross-examination you referred to a resolution passed by the faculty concerning matters of retirement and the failure of the president, Belkin, to respond, did you not?

A Exactly.

[4257] MR. SHECTMAN: I offcr to be marekd for identification a leter from Manfred Weidhorn to Samuel Belkin dated March 5, 1975 as Petitioner's Exhibit 112.

(Document referred to marked Petitioner's Exhibit 112 for identification.)

MR. KRAMER: I have no objection to this document.

MR. SHECTMAN: I will offer it into evidence at this time.

HEARING OFFICER: Received.

(Petitioner's Exhibit 112 for identification was received in evidence.)

Q Did you write these letters of March 5, 1975?

A Yes.

MR. SHECTMAN: Let the record reflect that this exhibit comprises two letters written on the same date to Dr. Belkin.

Q Were these letters sent to Dr. Belkin?

A They were.

Q And was this in the capacity—in your capacity as chairman of the Yeshiva College welfare committee?

A Yes, sir.

* * * *

[4267] RALPH BEHRENDS,

having been first duly sworn, was examined and testified as follows:

* * * *

Q Professor Behrends, by whom are you employed?

A Yeshiva University.

Q And where are you employed?

A At the Belfer Graduate School of Science.

Q And in what position?

A Professor of physics.

Q When did you join Yeshiva University?

A September 1, 1961.

Q And by whom were you appointed to the faculty of the university?

[4268] A By president Belkin.

* * * *

Q Professor, are you a tenured member of the faculty?

A Yes, I am.

Q When did you obtain tenure?

A When I started my eighth year according to the [4269] faculty handbook.

Q When was that?

A I guess in 1969 when I started in '69.

Q In what rank were you appointed to the university?

A Assistant professor.

Q And when were you promoted?

A I was promoted in '62 to an associate professor; in '66 to full professor.

Q And by whom did you receive notice of your promotions?

A President Belkin.

MR. SHECTMAN: I offer for identification as Petitioner's Exhibit 115 a letter addressed to Dr. Ralph Behrends from president Samuel Belkin dated August 23, 1966.

(Document referred to marked Petitioner's Exhibit 115 for identification.)

Q I show you Petitioner's Exhibit 115 for identification.

Is this a true and accurate copy of the letter you received notifying you of your promotion?

A Yes, it is.

Q Did you receive any letter from the deal of Belfer notifying you of that promotion?

[4270] A No, I did not.

* * * *

[4272] Q Do you do any work with regard to the preparation or conduct of PHD examination?

A Yes.

We have to give PHD qualifying exams twice a year. Those exams have to be prepared.

I am usually involved in that to a greater or lesser extend depending on which year it happens to be.

We—after the students take the written exam we have to give them oral exams.

I am usually on oral committees.

From time to time I am also on thesis committes.

In the past of course I have had thesis students, too.

Q Now, you referred to some work you do at the Lenox Hill Hospital.

Is that outside employment as distinct from your employment at the university?

A Yes.

It is a—it is outside employment.

Q And were you required to obtain permission for that employment?

[4273] A Yes.

Since I a ma full-time faculty member I am required by the faculty handbook to request such permission from the president of the university.

Q And did you request such permission?

A Yes, I did.

Q Did you describe—could you describe the course by which you sought permission?

A Yes, I did.

Q Did you describe—could you describe the course by which you sought permission?

A I received notification I guess from Dr. Fishman, forwarded by Dean Comar, suggesting that we—if we had outside employment that we should request permission to carry out such outside employment.

So I wrote a letter and asked that Dean Comar who I should address it to.

He said to address it to him, so I did, and he forwarded it and I received the authorization from Dr. Fishman.

Out of curiosity I asked Dean Comar if this was sufficient—

MR. KRAMER: I have to object at this point.

The correspondence ends with the receipt of the authorization and the remaining material is unresponsive to the question.

HEARING OFFICER: I will sustain the objection.

Q Did you find out whether the authorization you [4274] obtained from Dr. Fishman is sufficient to meet the requirements of permission from the president?

A Dean Comar assured me.

MR. SHECTMAN: I offer to be marked for identification as Petitioner's 116 a letter to Professor Ralph Behrends dated September 5, 1974 from Joshua A. Fishman, vice president for Academic Affairs.

(Document referred to marked Petitioner's Exhibit 116 for identification.)

Q Professor, I show you Petitioner's Exhibit 116 for identification.

Is this the approval or authorization you received from Dr. Fishman?

A Yes, it is.

* * * *

[4275] Q Professor, what committees of the Belfer School and the university do you presently participate on?

A Well, at Belfer as a full-time faculty member I am a member of the faculty council.

I am an elected member of the faculty committee.

I am the chairman of the faculty welfare committee and in the past I was a member of the academic credentials committee.

Q On a university-wide basis are you on any university committees?

A Yes.

I am the elected representative to the council of graduate schools, to the adademic planning and priorities committee or the resource allocation committee, and on the committee planning for a senate.

Q Are you on or have you served on the BA/MA committee of physics?

A Yes.

I still am on that.

Q You indicated that as a full-time member of the faculty you were on the faculty council.

Who else comprises the membership of that council?

A Well, the president of the university, the dean [4276] of the Belfer School, the associate dean of the school and all full-time professors, associate professors and assistant professors excluding adjunct and visiting staff.

Q How often does the faculty council meet?

A There are two statutory meetings in May and October.

Q And in the last two or three academic years how many times has it met each year?

A Except for last spring it's been meeting twice a year.

Q And have you attended all of those meetings?

A I would say the vast majority of them. I may have missed one.

Q Who presides at those meetings?

A Dean Comar, ex officio.

Q And could you describe matters of consideration that have come before the committee, that are typical of those that come before it?

A Before the faculty committee?

Q Yes.

A The faculty council?

Q Yes.

A Well, the faculty council represents the faculty and is advisory to the dean and the president and so in fact any [4277] matter—

MR. KRAMER: Mr. Hearing Officer—

A —can come before it.

MR. KRAMER: —I ask that the witness be responsive to the question.

The question dealt with matters that came before—typical matters, not whether council was advisory, which is conclusory.

That's in the record and will be cited in the briefs.

I would ask you to caution the witness to be responsive, not to editoralize.

HEARING OFFICER: Would you take into account counsel's—

THE WITNESS: Yes.

HEARING OFFICER: —remarks?

THE WITNESS: Yes, I will.

Q Could you tell us more specifically some of the recent issues which the faculty council has considered?

A Well, one thing I recall is the administration had intended to move the library from the Belfer building over into the main library building on the main campus.

That came before the council and a resolution was passed by the council posing this and the posing—ignoring [4280] of the library committee of the Belfer School, and trying to reach a decision.

* * * *

Q You testified that you were on the faculty committee, is that right?

A Yes.

Q Who makes up that committee?

A Well, again, the president of the university, the dean of the Belfer school, the chairman of each of the departments, one elected representative from each of the departments, one elected representative from math, physics and chemistry elected by the faculty [4281] council.

Q How often does this committee meet?

A Well, it usually meets just before the faculty council meeting and in addition it may meet on other occasions and has, in fact.

Q What is the purpose of it meeting just before faculty council meetings?

A It is advisory to the faculty council and hence presents sort of—sort of filters and puts into form the ideas that should be presented to the faculty council.

Q Did the faculty committee at—did it meet this past fall?

A Yes, it did.

Q And what were the subjects raised at that faculty meeting?

A Well, there was a question that I mentioned before about the library committee.

* * * *

[4285] Q When was the faculty committee meeting scheduled this fall?

A I couldn't give you the date.

Sometime in October.

Q I show you the minutes of the faculty committee meeting dated October 31, 1974.

Does that refresh your recollection?

A Yes.

* * * *

Q Can you tell us now when this meeting was held?
A When it was held?
Q Yes.
A October 31, 1974.
Q Can you tell us when it was scheduled, a week before, two weeks before?
A It must have been at least ten days before.
Q And were the matters raised at that meeting concerning [4286] transactions which occurred prior to October 30th?
A Yes.
Q Could you tell us about the issues that arose at that meeting?
A Well, the—one of the important issues was the change in the status of the math, science education department, and that had been going on quite some time. There had been rumors about it.

And math, science education department was rather upset over having not been informed by the dean of what was transpiring in terms of the moving the math, science education department to the C and I curriculum and instruction department at Ferkauf and they wanted to be apprised what the situation was and felt they were being ignored.
Q Would that move of the department have required a change in the cite of employment of faculty?
A Well, that was the question, whether they were going to be physically moved down there or whether they —it was just a paper shift of their affiliation.
Q What do you mean down there?
A Ferkauf is located at Fifth Avenue.
Q That's near 13th Street?
A Yes.
Q What street is the Belfer School located on?
[4287] A 185th Street, so they wanted, you know, this was one of the questions that came up.
Q What other questions came up?
A Well, you mean in terms of the math, science education?
Q No, what other—

A Oh, another question that came up was that the library committee had learned that the administration, Sokal, Fishman, Deitsch, and I think it was Deitsch, I am not sure, maybe Turbo, and president Belkin, had decided to move the Belfer library to the main library, and—
Q Had the faculty been consulted?
A No, the library committee had not been consulted an dno one at the Belfer School had been consulted and everyone was quite upset, again, by being ignored by the administration.
Q What other matters were raised?
A There was a report on the use of the computer and then there was a memo from the chemistry department and the chemistry department has—having lost its accreditation for giving PHD program in chemistry, and that the administration had been claiming that the loss had occurred because this department was too small or because it didn't include the undergraduate [4288] chemistry department in one massive university-wide chemistry department.

They felt that they wanted to bring to the attention of the committee the fact that the loss—they lost their accreditation for a lot of other reasons and these reasons were that there was not sufficient administrative support for the department, either in student support, in expendable supply support, in glass blowers and machine shop or in having a sufficient number of faculty members to cover all the fields that were necessary.

And that these were the main reasons they had lost their accreditation.
Q And had these been raised before, these protests over the conditions of the chemistry program, to the administration?
A Yes.

These protests had been made by the chemistry department over a period of four, five years.

In the annual reports that the chemistry chairman fills out, as all other chairmen of the departments there, there had been complaints about the fact that the sup-

port the chemistry department was receiving from the university was not adequate and the department was losing its viability.

[4289] Q And has the department in fact lost its accreditation?

A Yes, it has.

Q And that is for the PHD program?

A That's right.

Q What other matters were raised at that meeting?

A Well, the question also came up about the fact that the statutory meeting of the faculty council and the faculty committee in the previous spring had been called.

Q Who calls those meetings?

A The dean, and there was also objection over the fact that the academic credentials committee is supposed to review all new appointments and Professors Beck and Pollack were appointed in September of '74 and their names had not gone to the academic credentials committee from the dean.

Q Who appointed them?

A Pollack was appointed by the president of the university and Beck was hired by—I don't know who, possibly the chairman of the department or possibly Professor Rocca.

Q Was he hired under a grant?

A Yes.

[4290] Q And—

MR. KRAMER: Could I hear the names on that last one?

I can't get notes fast enough this morning.

(Record read.)

Q Was anything else raised at that meeting which you held?

A Well, it was the—the question was raised of whether all of these were not examples of the failure of the administration to consult with the faculty on—on matters of importance to the faculty.

Q And were these—were these matters subsequently introduced before the faculty council?

A Those that we had been able to resolve in time for the meeting, which was supposed to occur at four

o'clock and we were ten minutes late and we were not able to finish all the items of business before us, so we were not able to introduce all of the faculty council.

Q Do faculty at the Belfer School use the library?

A Yes, they do.

Q Where is that library currently located?

A It's on the fifth floor of the Belfer building.

Q So is it within a few floors of most faculty offices?

A Yes, it is.

[4291] Q And if it were moved, where would it be moved?

A It would be moved over to the main library which is—not too far, maybe a block and a half.

Q In another building?

A Yes.

Q And would the collection at the Belfer library be merged with the collection of the university?

A Well, that wasn't clear, whether it would be merged or put into a separate section.

Q Do faculty at the Belfer School use the computer?

A Yes.

The academic computer.

Q For what purpose?

A For research, also in terms of the computer course that is given to the students.

The students also use it.

Q Has the loss of accreditation of the chemistry department affected the members of the department?

A Well, they are no longer in a PHD granting department?

This has a certain loss in presige, and loss in standing in the academic community in general, as well as in the field of chemistry.

It is—whether one likes it or not, people take it as a reflection upon the chemists who are in the [4292] department.

* * * *

[4296] Q You testified that you are in the university committee to study the formation of the faculty senate?

A Yes.

Q What was that committee formed?
A Sometime in the fall of last year.
Q And does there exist a faculty senate at this time?
A No, there does not.
Q How were you designated as a member of that committee?
[4297] A I was elected by the faculty council.
Q Was anyone else from the Belfer faculty elected to serve on that committee?
A Yes, Dr. Patt.
Q And what faculty from Belfer currently represent the Belfer School on that committee?
A I do and Dr. Matis.
Q What happened to Professor Patt?
A Dean Comar decided that he didn't want Dr. Patt to represent the Belfer School at the committee plan senate so appointed Dr. Matis instead.
Q When was the election held for the representatives?
A It was held—I believe at the faculty council meeting—prior to this—to the October 31st, I am not sure, but it was sometime—it was before the committee to plan senate had been formed.
Q Was this fall or spring?
A It was last fall. It was sometime in October or possibly late September.
I am not sure.
Q Who received the most votes?
A I received the most.
Q Who received the second most?
A Dr. Patt.

• • • •

[4298] Q Were there other people on that ballot?
A Yes.
Q You and Professor Patt received the most votes?
A Yes.
Q It had been agreed that the persons receiving the highest votes would be appointed to the committee?
A Yes.
Q And who had—who had agreed to such a procedure?

A The dean and the entire faculty council.
Q At a duly-held faculty council meeting?
A Yes, at that meeting.
[4299] Q And did the dean at that meeting indicate that he would not accept—
A No, he did not.
Q And how did it come about that the dean replaced Prof. Patt?
A After the meeting the dean objected.
Q To whom?
A He brought it up to several faculty members and finally I got the word of it and I went and talked with the dean.
Q What did he tell you?
A He said he objected to Dr. Patt being on the committee, and I tried to make a compromise of the situation but I was unable to.
Q Did—at the faculty council meeting at which the election was held, how many members of the administration were there?
A At the faculty—
Q Faculty council meeting where the election of you and Prof. Patt was conducted, at that meeting, how many members of the university or Belfer administration were present?
A Only Dean Comar is the only administrator of the school.
Q Did Dean Comar vote?
[4300] A I am not sure.
It was by secret ballot.
I would guess he wouldn't since he was chairing the meeting.
Q And everyone else voted?
A Yes.
Q And who announced the results of the vote?
A Dean Komar.
Q How many times has that committee to study formation of faculty senate met?
A Well, it was meeting on an average of once a month for approximately two hours but the last two

meetings it has met for four hour periods once a month.

Q And who serves on that committee with you?

A Well, the other representatives of other schools plus Dr. Fishman, Dr. Sokal and Dr. Miller who is the vice president for student affairs.

And then—

Q That is not Professor Martin Miller from the Ferkauf School?

A No, this is Israel Miller and then also Rabbi Harloff is there—he's the director of Yeshiva program but I believe he is acting in the capacity as representative from the Yeshiva program but it's not clear in my mind.

[4301] Q And has that committee to date established any governing documents for a faculty senate body?

A No, it has not.

Q Have any such documents been proposed?

A No.

Everything is still in a very discussionary stage.

Q When did this—when was this committee first established?

A It must have been in October or November, possibly November.

Q That was prior to the filing of the petition herein—that was subsequent to the filing of the petition?

A Yes, I—it may have been.

I am not really sure.

Q Has that committee considered the representation of faculty on the board of trustees?

A Yes, it has.

A suggestion was made that we have senate representation on the board of trustees.

Q And what occurred when that recommendation was made?

A Well, the faculty members of the committee in general were in favor of it.

On the other hand, Dr. Sokal and Dr. Fishman—Dr. Fishman was sort of reluctant.

[4302] Dr. Sokal seemed outright opposed to the idea.

Q And what is the status of that proposal now?

A Well, since nothing has been brought to a vote or finalized, it is still in limbo.

We have to finally vote on all of these questions and put them down in a hard form.

* * * *

[4303] Q Who first proposed or convened this committee?

A Dr. Fishman.

Q And in what form?

A He called a meeting, notiried each of the designated representatives of the various schools to a meeting.

Q Does the committee have any formal by-laws?

A No.

Q Does the committee have any formal governing documents?

A No.

Q Does the committee have officers?

A No.

Q Has anyone—has Dr. Fishman explained the authority of the committee to its membership?

A Only insofar as he said that the—that president Belkin has been in favor of the formation of the senate and that we should see what—what kind of a thing the senate should be if we would form one, whether we were in favor of forming it and if we were in favor of forming it, what form it should take, who shoulkd be on it, what its powers should be, who it should represent, everything was left as an open question.

Q All right.

Are there presently any faculty members on the [4304] board of trustees?

A No.

Q Are there any students on the board of trustees of the university?

A No, there is not currently.

Q You testified also that you were a member of the council of graduate schools.

A Yes.

Q Who makes up the membership of that council?

A Well, there are six graduate schools.

There are two faculty representatives from each graduate school, two students from each graduate school and

then a total—tha totals up to 12 faculty members, 12 students and there are 18 administrators.

Q What is the role of that—

MR. KRAMER: Mr. Hearing Officer, once again if counsel has underlying by-laws and documentation as I understand it does, that would be the evidence of what its statutory purpose would be.

Beyond that the questionis conclusory; if the witness was asked wht is being done, that's another matter, what transpired at the meeting.

From that the reader of the record can adduce what the purpose of the committee is.

Q Professor, can you tell us some of the redent [4305] matters that have been considered by the council of graduate school?

A Yes.

One was the question of the chemistry PHD program.

The chairman of the chemistry department was invited to the meeting to discuss the loss of accreditation, and present—he presented a point of view that the council of graduate schools should go on tecord as being in favor of the reinstituting of PHD program in chemistry.

Q Was a vote taken on that issue?

A Yes.

A vote was taken and it was passed that there should be—that the council of graduate schools should go on record as being in favor of reinstituting a PHD program in chemistry.

Q Can you describe the vote?

A Yes.

The vote was for the resolution, with all the faculty and students.

Q And against the resolution?

A Plus Dean Komar of the Belfer School.

Opposed to it were Dr. Skoal, I believe Dr. Miller. I am not sure—

Q Would it be fair to summarize and say—

A Dr. Green—I will take it back.

[4306] There was someone sitting next to Dr. Sokal and I can't remember who but Dr. Green from Wurtz-

weiler voted for it, maybe Dr. Miller was on my left and abstained.

Q Besides Dean Komar did any other member of the university administration vote for that resolution?

A No.

* * * *

[4307] HEARING OFFICER: What point are you trying to make, Mr. Shectman?

MR. SHECTMAN: The alignment of faculty and administration, the fact that it has been considered repeatedly in the university cases as to the definition and status of department chairmen and others that has been placed in issue by universities, accordingly the affairs on these committees and the actions taken we believe are reflective of and are relevant and material considerations before the board.

* * * *

[4309] Q Professor, was any specific action taken as a result of that resolution that you know of?

A No.

* * * *

Q You testified that you were also a member of the faculty welfare committee.

Is that a committee at the Belfer School?

A Yes, it is.

Q Is that a standing committee at the Belfer School?

A Yes, it is.

Q What are its statutory powers?

A To discuss the questions of wages and fringe benefits and tenure with the administration and other matters I quess of working conditions.

Q When were members of the Belfer faculty designated as members of the welfare committee?

[4310] A In the October 1972 meeting of the faculty council, the faculty welfare committee was formed.

Q And subsequent to that was there an election of specific members of the faculty to the welfare committee?

A Yes.

At first it was that the faculty committee is—as a whole would act as a faculty welfare committee and then later I believe in '73, it was decided to change

and make the faculty welfare committee just—at a faculty council meeting, to change it to just five or six members.

Q And who was elected at that meeting?

A I was elected, Dr. Patt was elected, Dr. Matis was elected, Dr. Coburn and Dr. Berger, I guess Dr. Berger for six months and then Dr. Coburn was coming back and he would then take the place of Dr. Berger.

Q Dr. Spindel?

A Dr. Spindel, yes.

Q And those persons were elected by the—

A Faculty council.

Q Comprising—

A The welfare committee.

Q But they were elected by the entire faculty?

A By the entire faculty council, yes.

The entire faculty.

[4311] Q Did the dean of the school take part in that election?

A Well, he was chairing the meeting so I guess he didn't vote.

I am not sure if he votes or not—or doesn't vote. I doubt that he votes.

Q Are any of those persons you listed chairmen of departments?

A Dr. Coburn is chairman of the mathematics department.

Q And does Dean—excuse me, does—

A Incidentally—

Q Deos Prof. Patt have an assignment other than as a faculty member?

A Yes.

He is the assistant dean.

Q And he was elected by the faculty too?

A Yes.

Q Are any of those persons you listed on the welfare committee principal investors?

A Yes, they are.

Dr. Patt—Dr. Matis is a principal investor, I believe at the time Dr. Spindel was, Dr. Coburn and Dr. Berger, except—Dr. Berger and Dr. Coburn may be co-principal investors.

[4312] Q What activities did the faculty welfare committee undertake in the academic year 1972-1973?

A We tried to formulate a package of salary increments to present to the administration for the salary increases for faculty of the Belfer School and we came up with a—finally with a package which was a ten percent across the board increases, plus some percentage unspecified of the total salary budget to be used for promotional increases for inequities that had occurred over the years, and for matching offers from others.

Q All right.

MR. KRAMER: Mr. Hearing Officer, I would move to strike this line of testimony on the same basis that I have objected repeatedly in the past when testimony was offered about the welfare committees of other schools in terms of the detailed dealings between those committees and the administration.

If you recall we had Prof. Weidhorn on the stand yesterday and he testified as to the composition of the committee.

I did not object, just as I did not object today, to the election of the committee.

There was no dispute that such a committee exists and there is no dispute that the faculty of the Belfer School does not have control, ultimate control [4313] over how much they will be paid.

That is a university decision in the hands of the vice president of finance, the president of the university and the board of trustees, the same would go for the major fringe benefits such as the pension plan, Blue Cross, Blue S-ield program, to the extent it may exist.

Those major items, most certainly are in the—the ultimate decision-making rests with the persons I have named, not in the welfare committee of the faculty.

The university has at no time stated that the welfare committee of the faculty or the faculty of the Belfer School have the decision-making authority over how much they will be paid and what major fringe benefits they will or will not receive any more than any other em-

ployees just about of any other major employer in the country have control.

Whether they are supervisor or managerial employees or just employees within the meaning of the Act, it is a course affected by many other considerations.

I object to counsel pursuing as he did yesterday and he will do now for an hour or hour and a half, a course of dealings to the extent the course of dealings may exist here, apparently a shorter course of [4314] dealings and probably a less significant course of dealings even when viewed from the prospects of the petitioner.

But nevertheless an hour and an hour and a half will be spent in going through these courses of dealings.

I object to that.

I move to strike this line of testimony.

MR. SHECTMAN: First of all I believe we can limit this to a very short time.

I would hope it would be a matter anywhere between five and ten minutes.

If, of course, counsel will refrain from redundant objections, which have been the case every time the welfare committee has been brought up.

* * * *

[4316] HEARING OFFICER: Yesterday I allowed the testimony to go into the record and today I will allow it to go into the record.

MR. KRAMER: I will appeal the ruling to the regionarl director.

* * * *

[4318] HEARING OFFICER: Board Exhibit 3, as it is clear from the appeal my ruling has been reversed and counsel for the petitioner will be precluded from going into the dealings between the committee and the university.

* * * *

[4319] Q Professor Behrends, did the proposals of the faculty welfare committee to the university include proposals to increase the salaries of department chairmen?

A Yes.

Q To increase the salaries of principal investors?

A Yes.

Q And to increase the salaries of part-time faculty?

A No.

Q To increase the salaries of anyone—any employees under a grant other than the principal investor?

A No.

Q In the academic year 1972-1973 without describing the proposal, did the faculty welfare comittee make a proposal to the university?

MR. KRAMER: I must object on the grounds that it pertains to a course of dealings between the university and the faculty welfare committee, the very subject the regional director dealt with.

I did not obje- ton the question of whether the welfare committee made proposals on behalf of part-timers, in light of the comments that were made yesterday by [4320] counsel and counsel made during the argument of the appeal, but I do object here.

I think it is within the resional director's ruling.

HEARING OFFICER The objection would appear to be germane and therefore it will be sustained.

Q Professor Behrends, I show you Petitioner's Exhibit 17 annexed to Board Exhibit 2 herein, a letter addressed to president Samuel Belkin, dated September 26, 1973 from yourself and Professor Martin Miller.

Did you send this letter to President Belkin (handing)?

A Yes, I did.

Q Did you receive a response to that letter?

A Yes.

MR. KRAMER: Could I see what was just shown to the witness?

HEARING OFFICER: Yes.

Q From whom did you receive a response?

A Dean Komar.

MR. SHECTMAN: I offer for identification a letter from Dean Arthur Komar to Dr. Ralph Behrends dated October 23, 1973.

(Document referred to marked Petitioner's Exhibit 118 for identification.)

[4321] Q Professor Behrends, I show you Petitioner's Exhibit 118 for identification.

Is that a true and accurate copy of the letter you received from Dean Komar in response to the September 26th letter to the—to President Belkin?

A Yes, it is.

* * * *

Q Professor, to what department do you belong?

A Physics.

Q Are there regular department meetings?

A Yes.

Q And how often are they?

[4322] A Once every two or three weeks on the average, I believe.

Q Who generally attends those meetings?

A All the members of the physics department.

* * * *

[4334] Q (By Mr. Shectman) Professor Behrends, how were the course schedules for the Physics Department determined this year?

A Well, we have a meeting, a departmental meeting and the courses are listed up on the blackboard that have [4335] to be taught for the year.

The faculty members make their choices as to which courses they would like to teach for the year.

Then the times have to be set as to when the courses will be offered in order to avoid any conflict.

For instance, there are four or five first year courses in the Graduate School at which a normal entering student would take and those courses can't be scheduled at the same time so there would be a conflict.

So we arrange it so that the timing is proper for those courses.

Then, as student adviser I take the name of the course, who is teaching it and the hours to be given, to Charley Patt.

* * * *

[4336] Q (By Mr. Shectman) Professor Behrends, does anyone present at the department meetings assign the courses which are to be taught?

A No.

Q How are questions of conflicts over who will teach what course resolved?

A Between two people who want to teach the same course.

Then they sort of argued it out amongst themselves, the two who want to teach the same course.

It often happens, you know—not often, but out of schedule of the courses there may turn out to be one course that two people want to teach and one course that nobody [4337] cares to teach and finally, just in the act of being cooperative one will choose to take a course that he didn't really specifically want and the other one would take it with sort of the understanding the next time around the choices will be made differently.

Q Has Charles Patt or the Office of the Assistant Dean ever assigned the course schedules for the Physics Department?

A No.

Q What course are you teaching at the Belfer School this year?

A Electricity and magnetism.

Q Did you receive any assignment as to where that course would be taught?

A Yes, I did.

Q Do you recall what that assignment was?

A It was on the second floor.

At this time I'm not sure which room number it was.

Q Where is that course currently being taught?

A In my office on the seventh floor.

Q Do you have personal knowledge as to whether any other members of the faculty teach courses in their offices?

A Yes.

Q Are those locations or sites for the teaching of courses assigned to them?

[4338] A If they have made the express request to have their courses taught in their offices they will have their offices assigned.

If they don't make any request specifically, and I'm the one that has to take all of this data to Charley Patt,

then they are automatically assigned by Charley Patt in some room to teach in.

I don't recall having taken down any specific requests for teaching in their specific offices, yet I know that some of them do.

For instance, Dr. Lebowitz.

Q When Dean Komar was President of Belfer School who called faculty meetings?

A Which faculty meetings?

Q Faculty council meetings?

A Dean Komar calls the faculty council meetings.

Q Who chairs the faculty council meetings?

A Dean Komar.

Q Who chairs those meetings?

A Dean Komar.

* * * *

[4341] Q (By Mr. Shectman) Professor Behrends, what department are you in?

A Physics Department.

Q Who is the Chairman of that Department?

A Dr. Lebowitz.

Q How was Dr. Lebowitz chosen?

A He is elected by the department every three years.

Q Are there regular department meetings, Physics Department meetings?

A Yes, there are.

Q How often?

A They probably average about every two or three weeks.

Q Can you tell us the subject matters of those meetings?

A Well, as I described before there is a decision [4342] of what courses to be taught.

There are questions about the students.

For instance, when we get to the time of year which occurs twice a year when we have to have the Ph. D. qualifying and the Master's test, we have to get someone to make up the tests, the written tests and then in fact we just recently—we are now looking over the tests before they are given, as a faculty, in the department, not

just having him give—make up the tests and give them himself.

Afterwards, after the test has been given the students have to take oral qualifying exams and so then we have to choose the various committees that will sit, usually three faculty members on each committee to examine the students.

We have to decide on the basis of the grades they got on the test, written part of the test whether we feel—on the written part and on the oral part whether we feel that they have passed as far as a Master's Degree is concerned and/or whether they passed as far as a Ph. D. qualifying exam is concerned.

We spent a good deal of time discussing the question of the State, of the Evaluation Committee coming down to examine our Ph. D. program in Physics, and in terms of what should be said in the report and how we—what stance [4343] we should take relative to the three investigators—the two investigators who came down to examine our department.

We generally have to decide on who will be—who will get to be the teaching assistants.

We have to decide on who—if the grades arent's being kept up or is not performing, whether he should be continued on at the University.

Then, on occasion, if there is the opportunity, if the administration says that we have the opportunity to having another faculty member, then we discuss the possibilities and which section of the Physics Department should get a new member, whose turn it is in a sense, or if we lost somebody, there should be a replacement for that person lost.

The qualifications—somebody becomes an advocate or a group of people become an advocate for certain faculty member to be brought to our school and he will be discussed, and the question will come up about when he should come and give us a seminar so that the whole faculty can see him.

We also have to discuss who will be at the various colloguia and seminars which are held each week.

We have to have outside speakers and usually somebody has to take the responsibility of doing that.

[4344] Often that person wil lask if there are any suggestions as to people who are doing something interesting in one of the fields, and whether he should be asked to come and give a lecture.

Q Does the department chairmen attend these meetings?

A Yes.

Q How is action taken by the department on any of those questions or issues to which you have referred?

A It runs very informally and generally a consensus is arrived at.

At times there may be a vote, but the vote will be unanimous.

I can only recall one instance, I think, where there was a vote which was not unanimous.

The vote was lopsided, and that was for the election of our representative to the Faculty Committee.

Q Who was that representative?

A Dr. Cooper, but he has left now.

Q And by reason of that election was he or did he in fact serve as representative for that committee?

A Yes.

Q And the department chairmen does not appoint a representative to that committee?

A No.

Q You indicated that the department may consider [4345] certain issues as to the appointment of new faculty.

Did the department make any recommendations last year and, if so, to whom for the hiring of new faculty?

A Yes, we thought we suddenly had the possibility of making up to three appointments and I believe Dean Komar told us that this possibility existed so we decided that we would get one person possibly in microscopic physics and the name suggested by that group was Dr. Pollack.

Then the elementary particles group wanted a senior and a junior appointment because Dr. Landovitz, who was

a member of the Physics Department left and we felt we would get a replacement for him.

Dr. Cooper was leaving and we felt we would have a replacement for him too.

So we made two suggestions, some that were—

Q To whom did you make those suggestions?

A To the department, came to a consensus that we would make these suggested faculty replacements and so when it was voted on and accepted by the department, then Dr. Lebowitz took it, who was the chairman, took it to the Dean and they went to the higher parts of the administration.

In a stipulation that we put there was that we were supposed to be informed that the University was not going to appoint all three, to let us know how many they [4346] would appoint, and we would make the choice as to which one would be the one that we would like to have appointed, and—

Q On what basis—

MR. KRAMER: I don't think the witness has finished his answer.

The last word he said was "and".

A (Continuing) And then what happened is they came back and told us that Fred Pollack was the one that was hired and that caused a little bit of a storm that we were bypassed and not given the opportunity of making the choice.

Q By whom was Mr. Pollack appointed?

A The president of the University.

Q On what basis or what considerations were discussed at the department meeting in choosing who and what areas of the department in fact they were needed for?

A Well, as I pointed out in elementary particles we were losing two people and to keep elementary particles physics as a viable section of the Physcis Department we felt that we would have to have two other people to replace these.

Otherwise it starts getting down to the point where you have one person in a field and that is just not a viable department, in that viable group in the depart-

ment, [4347] because it is very important first to be able to talk to your colleagues and discuss your research and their research and ideas are created in this manner.

How you decide on who it is going to be is the specialists in the field look around and find out who they feel have the best professional qualifications.

Q Is it then your testimony that the department recommended the hiring of three persons?

A Yes.

Q With certain stipulations?

A Yes.

Q And were those stipulations complied with by the administration?

A No, they were not.

They did not come back to us and tell us there was only one appointment to be made, they made the choice.

Q Does the Physics Department consider issues as to the promotion of faculty members within that department?

A Yes, we do.

Q Can you describe that, please?

A Well, the professors senior to the person being considered for a promotion meet and discuss the person's progress, his publications, his professional standing and if these measure up to the standards that we are [4348] trying to keep at the Belfer School or increase at the Belfer School, then this group will come to the conclusion he should be promoted and so recommended to the Administration and the Chairman of the Department would then take it to the Dean and then it will go up I guess to Vice President Fishman and then to the president.

Q Have all such recommendations been granted and acted upon favorably by the University?

A No, they haven't.

In fact, there was a freeze on promotions that started back in 1971 and it wasn't until last September or October that the senior faculty at the Belfer School met with President Belkin and he finally agreed to allow five or six promotions at the school which had been held up for quite a period of time to finally go through.

Q When was that meeting with President Belkin?

A In September or October of last year, '74.

* * * *

[4349] Q (By Mr. Shectman) Has a promotion ever been granted within the Physics Department that the department meeting did not consider?

A Not to my knowledge.

* * * *

CROSS EXAMINATION

[4362] Q (By Mr. Kramer) Dr. Behrends, are you a member of the Library Committee of the Belfer School?

A No.

Q Were you ever a member of the Library Committee of the Belfer School?

A No, I was not.

Q Did you attend meetings of the Library Committee?

A No, I did not.

Q Have you had opportunity to discuss the purported transfer of the library from the Belfer Building to some other building with Vice President Fishman?

A No.

Q With Vice President Sokol?

A No.

Q With President Belkin?

A No.

Q With the head librarian of the University?

A No.

Q You yourself have had no personal dealings directly with any member of the University administration in [4363] connection with the purported transfer of the library from the Belfer School to elsewhere?

A With Dear Komar.

Q Other than with Dean Komar?

A No.

Q Has the library in fact been transferred from the Belfer School, Fifth Floor to anywhere else?

A No.

Q Now, have you ever been a member of the Math and Science Education Department?

A No.

Q Did you attend meetings of the Math and Science Education Department?
A No.
Q Have you conferred with Vice President Fishman, Vice President Sokol or President Belkin concerning the transfer of the Math and Science Education Department from the Belfer School to the Ferkauf School?
A No, I have not.
Q You have had no personal dealings in that area with any of those individuals?
A That is correct.
Q And that would be outside of course of your normal area of activities and you are a physics professor I take it?
[4364] A Yes.
Q You do not get involved personally in the affairs of the Math and Science Education Department?
A Except insofar as it goes to the Faculty Committee.
Q Except insofar as you may hear about it in the Faculty Committee?
A Yes, and with the individuals involved, of course.
Q But your knowledge in this area is second hand from other people telling you things?
A Yes.
Q Telling you things outside the course of your normal teaching duties?
A Well, I'm also the Welfare Chairman and I also am a member of the Faculty Committee and some questions do come up to me that they are disturbed about.
Q You are also an Officer of the Petitioner?
A Yes.
Q And the faculty members of the School know you are an Officer of the Petitioner?
A Yes, that's correct.
Q And things come to you in that way too, don't they?
A Yes.
Q People tell you about them?
A Yes.

Q And what you have told us here about the movement [4365] of the Math and Science Education Department from the Belfer School to the Ferkauf School is based on things people have told you about it?
A Yes.
Q Not in firsthand dealings you have had with the administration?
A That is correct.
Q And the same thing would hold true with respect to the Library?
A Yes.

* * * *

Q Would it be fair to state that the Chairman of the Library Committee is opposed to the movement of the library from Belfer to somewhere else?
[4366] A That I had the impression.
Q The Library has not been moved?
A That's right.

* * * *

[4370] Q At any time during the course of that discussion, Professor Behrends, did Dean Komar tell you in words or in substance that he would prefer if Dr. Patt did not serve on the Senate Committee because, in his view, meaning Dean Komar's view, Dr. Patt was an administrator?
A That may have been one of the reasons.
MR. KRAMER: I would like to have my question read back.

(The last question read by the Reporter.)

MR. KRAMER: I think that question lends itself to a yes or no.
A Yes.
Q By the way, Dr. Behrends, how many representatives does the Belfer School have on the Faculty Senate Committee at any one time?
A One official representative.
Q One, not two?
A There is an alternate.
[4371] Q One representative?
A Right.

Q And not two?
A Right.
Q Who has replaced Dr. Patt?
A Dr. Mattis.

* * * *

[4372] Q Dr. Mattis is the alternate, is he not?
A That is correct.

* * * *

[4383] Q You told us in your direct examination this last September or October there was a senior faculty meeting with President Belkin?
A Yes.
Q It was your testimony that at that meeting he agreed to allow five or six promotions at the School?
A Yes.
Q Did you attend that meeting?
A Yes.
Q Was this attended by the entire faculty?
A No.
Q Who attended that meeting?
A It was the faculty committee and certain senior faculty members.
I don't know how the decision on that was reached.
Q Those promotions had been recommended by the senior faculty of the Belfer School prior years?
A By the Department, yes.
Q Not by the Senior Faculty?
A Well the Senior Faculty in the Department.

* * * *

[4384] Q (By Mr. Kramer) Professor Behrends, at Page 4289 of the record at Lines 20 through 22 you testified:

"Pollack was appointed by the President of the University and Beck was hired by—I don't know who, possibly the Chairman of the Department or possibly Professor Roccah," and it went on.
"Was he hired under a grant?"
You answered yes.
I then asked that the question be read back and in your presence and we continued the line of examination.

This morning you testified that both Beck and Pollack were hired by the President of the Institution.
On what basis did you change four testimony, Professor Behrends?
A As I explained this morning I was saying Beck but [4385] I was thinking of Bell and Beck couldn't have been on Roccah's grant because Beck is in the Chemistry Department.
Q Was Bell hired by Roccah?
A On Roccah's grant, yes.
Q And Beck was hired in the normal course that faculty members are hired at your School?
A Yes, in the Chemistry Department.
Q He was interviewed by the Department?
A I would imagine so, I don't know.
Q Were you there?
A No, I'm not a chemist.
I'm not a member of the Chemistry Department.
Q So you are not familiar with how Beck was hired other than the fact that in the normal course the president would send him a letter of appointment?
A Yes.
Q Your testimony is not that the president hired Beck but that Beck was appointed by the president?
A Yes.
Q That would also be so with respect to Pollack?
A Yes.
Q By appointment you mean the letter of appointment came from the president?
A And signed by him, yes.
[4386] Q Is it a fact that Professor Beck was hired by the University in September of 1974?
A Yes.
Q Isn't it a fact, Professor Behrends, that Professor Beck worked for the University prior to September 1974?
A As a research associate, I believe.
Q As a research associate you believe; is that your testimony?
A Yes, up until January, I believe, of 1974.

Q Are you sure that he was not a research assistant professor.

A I don't believe so, but I cannot be positive.

Q You are not sure one way or the other on that, are you?

A He was working on Jerry Musher's grant.

Q Jerry Musher's grant you said?

A Yes.

Q Doing scholarly work on that grant?

A Yes.

Q By the way, what is Professor Beck's area of expertise?

A I don't know what field, what part of chemistry.

Q He is a chemist?

A Yes.

Q And he would have been hired by Professor Musher; [4387] isn't that correct?

A When he worked on Professor Musher's grant he would have been hired by Professor Musher.

Q That is full time employment, is it not, not in terms of 12 hours equivalent, but in terms of the work day that people spend?

A I don't know if he was hired on a full time basis.

Q Now Professor Bell, did he work at Belfer prior to September of 1974?

A Yes, from September 1973.

Q In what capacity?

A He was working on Dr. Roccah's grant.

Q And he was, as your testimony indicates, hired either by Dr. Roccah or possibly the Department Chairman; that was your testimony?

A Yes.

Q And that is on Page 4289?

A Yes.

Q When did Professor Bell become a full time faculty member, regular full time faculty member?

A He is still not a full time faculty member.

Q What is Professor Bell doing?

A He is working on Dr. Roccah's grant.

Q Doing scholarly work?

A Yes.

[4388] Q He has a Ph. D., does he not?

A Yes.

Q He attends Physics Department meetings, does he not?

A Yes.

Q He teaches a course or courses, does he not?

A I think he teaches one.

I'm not sure it is one or maybe two, I'm not certain.

Q One or maybe two courses?

A But I have a tendency to think it is one course.

Q You are not sure whether it is one or two; is that right?

A Right, I'm not absolutely sure.

* * * *

[4389] Q You told us that the President of the University was a member of the Faculty Committee.

Has he ever attended a faculty committee meeting at which you were present other than the very special meeting that you referrd to involving the promotions?

A No.

* * * *

[4392] Q You told us that at a meeting of the Graduate Council there was a vote to reinstitute the Graduate Chemistry, Ph. D. Chemistry Program?

A A recommendation that there should be, the Council should go on record in favor of reinstituting the Ph. D. Program.

Q At the present time, however, that program has been deregistered in futuro by the State of New York; is that not a fact?

A I don't know what the word—

Q To be registered for the future?

A Yes.

Q By State Order?

A Yes.

Q That means that those persons who are in the program as of now are afforded an opportunity to finish but that new people are not permitted into the program?

A Yes, effective September 1st, '74.

Q That was something that was opposed by the president of the institution initially?

A Yes.

Q And by the vice president of Academic Affairs?

A Yes.

Q And by the Chairman of the Chemistry Department?

A Yes.

* * * *

[4396] Q (Dr. Behrends, you testified on direct examination that one of the things that is done in departmental meetings is that it is determined which students will receive research assistantships?

A Yes.

Q Those research assistantships carry with them stipends or awards of money in one way or another?

A Yes.

Q Or payments, sir?

You tell us.

A Well, in fact there is some money that comes from [4397] the University itself for teaching assistantships.

There is money that people have on grants for research assistants.

What we do is, we go through the list of students and sort of rank them, the professors giving their various opinions on whether these students should be supported or should not be and it is always taken into consideration how much money we have available in the pot to distribute amongst these students.

These students in fact come to the Physics Department and that is what we are talking about, only the Physics Department?

A Right.

Q Come to the Physics Department with a need for assistance, I assume?

A Yes.

Q And then you decide as a department how much of that need to meet if any based on the funds that you have available and the qualification of the particular student?

A That is correct.

Q Does that determination have an effect on whether those students remain at the Belfer School?

A It usually does, yes.

Q You have told us that in departmental meetings determinations are made when grades are not kept up whether [4398] a student should be continued; is that a fact?

A Yes.

Q And if a student is not continued I assume he goes out of the University?

A Yes.

Q Out of the School?

A Yes.

Q In most cases out of the University?

A Yes.

* * * *

REDIRECT EXAMINATION

* * * *

[4401] Q Did Dean Komar give you any other reason than the one you indicated under cross-examination as to why he would not approve of Professor Patt serving on the Senate Committee?

A Yes, he did.

[4402] Q What were those other reasons?

A He said that he felt that Dr. Patt did not have sufficient research record and standing in terms of research and he felt that he would not be appropriate to represent the Belfer School.

MR. SHECTMAN: No further questions.

RECROSS-EXAMINATION

Q (By Mr. Kramer) Did Dean Komar direct you to remove Professor Patt from that Senate Committee?

A I don't see how he could direct me to remove. I had no authority to remove anybody from anything.

Q Did he issue an order removing Professor Patt from the committee?

A He simply notified Dr. Fishman that Dr. Mattis would be the representative, the ultimate representative.

* * * *

[MAX LIPSICAS—CROSS EXAMINATION]

[4445] Q And is this a proposal for a renewal of the NSF grant that you referred to in your direct examination?

A May I look through it?

Q Go right ahead.

A Yes, it is.

MR. SHECTMAN: May we have a copy of this?

MR. KRAMER: I have only one copy. When I offer it, I will give it to you.

Q (By Mr. Kramer) And this renewal covers the date starting April 1, 1974?

A Yes.

Q And it is for a proposed duration of three years?

A It's for a proposed duration of three years, yes.

Q And in the amount of 170,970; is that correct?

A That's what was proposed.

Q Yes.

Now, Professor, this proposal that we have here, was both signed by you as principal investigator—

A Yes.

Q —and approved by the Dean?

A Yes.

Q Now, you have told us, Professor, that the Dean, for that matter or any other official of the university, has not changed one of your proposals?

[4446] A That's correct.

Q But it does require his approval, does it not?

A It requires his signature.

Q And he would have the authority to alter that proposal, would he not?

A I don't know.

Q But it does require his approval?

A It requires his approval, yes.

Q And without his approval it can't be submitted?

A I don't know how to answer that because it never happened.

I don't know what the rules are.

Q You don't know, Professor?

A No.

MR. KRAMER: Would you mark this as Employer's Exhibit 156, please, for identification?

MR. SHECTMAN: May I see 155 for a moment?

MR. KRAMER: Of course.

(Handing.)

Q (By Mr. Kramer) Now, Petitioner's Exhibit 155 contains a budget, does it not, a proposed budget?

A Which one is this again?

Q 155.

It contains a proposed budget?

A Yes.

[4447] Q And this is for a three year period?

A Yes.

Q You proposed this budget, did you not?

A I wrote this budget.

Q And the budget calls for a post-doctoral associate?

A Yes.

Q At $12,000 in the first year?

A Yes.

Q And a technician for $10,000?

A Yes.

Q Assuming for the moment that a technician and post-doctoral associate were approved by the NSF, you would be the person who hired those people; is that correct?

A That's correct.

Q And that technician was supposed to do what, Dr. Lipsicas?

You made up this budget.

A Whoever is hired on this budget is completely up to me as to what he is going to do.

Q And what was in—was it in your mind for him to do, Professor Lipsicas?

MR. SHECTMAN: To where is counsel referring?

MR. KRAMER: Right here.

(Indicating.)

MR. SHECTMAN: This is what document?

[4448] MR. KRAMER: 155. It hasn't been received. It hasn't been offered yet.

A The idea of asking for a technician was to get help in maintaining my equipment. But this is proposed.

Q I understand.

Now, I show you Employer's Exhibit 156 marked for identification.

The grant number is stated there, dated April 1, 1974, proposed duration of one year.

A Yes.

Q And apparently on its face it refers to the same study that Employer's Exhibit 155 referred to?

A That's this one.

(Indicating.)

Q That's correct.

A This is the revised budget.

Q Was a revised budget necessary?

A Yes, because I got a telephone call saying that they were not willing to grant that budget.

Q So you developed a revised budget; isn't that correct?

A Yes.

Q And that revised budget did not have in it a technician, did it?

A That's correct.

Q And you reached the decision that a technician, [4449] based on your conversation with the NSF, that a technician would not be necessary on your grant in the light of the circumstances?

A In the light of the fact of the restriction of funds, I decided to divide the budget up that way.

Q That was your decision?

A That was my decision.

Q Now, Professor, who is the post-doctoral associate who was hired under this grant?

A That's Dr. Gerber.

Q Dr. Gerber?

A Yes.

Q And what is Dr. Gerber being paid?

A He is being paid 11,000 for 12 months.

Q And that's based on your decision?

A That's based on my decision.

* * * *

[4467] MR. KRAMER: I will withdraw the question.

Q (By Mr. Kramer) Did you, Dr. Lipsicas, supervise the performance of the research under this contract and indeed perform some of it yourself, the contract being a contract between the university, which we just thumbed our fingers through, and the Atomic Energy Commission?

A As I was saying, I performed this work with a post-doctoral associate.

[4468] Q And you hired this post-doctoral associate, did you not?

A Yes.

Q Did you pay him out of your personal funds?

A Out of my personal funds?

Q Yes.

A No.

Q Did you withhold income taxes for him?

A No.

Q Did you withhold social security taxes for him?

A No.

Q Did you pay workmen's compensation insurance on him?

A No.

Q Did you sign a contract with him?

A I sent him a letter of appointment.

Q You sent him a letter of appointment?

A Yes.

Q Just the way the president sent you, is that correct?

A Yes, I sent him a letter of appointment.

MR. KRAMER: I offer Employer's Exhibit 161 in evidence.

HEARING OFFICER: Any objection, Mr. Shectman?

MR. SHECTMAN: Will we get copies of this?

[4469] MR. KRAMER: Sure, as soon as we can make Xeroxes.

Given the short notice that we had that the witness was going to testify, we didn't have time to make copies of them.

MR. SHECTMAN: I can appreciate that.

No objection.

HEARING OFFICER: Received.

(Whereupon, Employer's Exhibit 161 was received in evidence.)

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Mr. Kramer?

MR. KRAMER: Would you please mark this as Employer's Exhibit Number 162 for identification.

(Whereupon, the above described document was marked as Employer's Exhibit 162 for identification, as of this date.)

* * * *

[4476] Q (By Mr. Kramer) Professor Lipsicas, I show you Employer's Exhibit 164, which has been marked for identification, a letter from the National Science Foundation, dated March 31, 1969, to Dr. Samuel Belkin, President of Yeshiva University, informing the university of a $40,900 grant in GPF 11314 involving Nuclear Magnetic Resonance Measurements in gases and liquids.

[4477] Are you familiar with this letter?

(Handing.)

A Yes.

Q This money was in fact given to the university by the National Science Foundation, was it not?

A It says here granted to Yeshiva University. Yes.

Q And this money funded, did it not, the NMR Measurements in gases and luquids study which is described at some length in Employer's Exhibit 163?

A I will have to check on that. Yes, that's correct.

Q By the way, Professor Lipsicas, it is a fact, is it not, that you supervised this study?

Is that correct?

A I don't understand what you mean by "supervised."

As I have said before, I work on this—on the subject matter of this proposal with either a student or a research associate.

Q You hire the research associate?

A I hire the research associate.

Q Do you tell the research associate what to do when it's necessary to do so?

A When it's necessary to do so. But—

Q You testified to 15 percent of the time, as I recall it?

A Right.

Q And you have the authority to terminate him, as [4478] you told us previously, is that correct?

A That's correct.

* * * *

[4482] Q (By Mr. Kramer) Now, you told us that a Dr. Joel Gerber, is employed on the National Science Foundation grant during the 1974-75 school year.

Is that correct?

A That's correct.

Q At a salary of $11,000.

Is that correct?

A Yes.

Q Not paid by you.

Is that correct?

A Not paid by me, that's correct.

Q What is Dr. Gerber's background?

A He has a PhD from Tufts University. His thesis work he did at the National Laboratory in Boston.

He is an expert in low temperature techniques. That's his background.

Q Now, in addition to—

A Oh, and he has a PhD from Tufts. I think I said that.

Q And he is a chemist or physics?

A He is a physics.

[4483] Q And an expert, I think as you have told us—

A In low temperature techniques, yes.

Q Do you have a Colloquia at your school?

A We do.

Q Do you have Colloquia in chemistry?
A Actually in 1975 we haven't had any.
Q Do you have Colloquia in physics?
A Yes.
Q Do you regularly attend the Colloquia physics Colloquia?
A Not regularly.
Q You don't know whether Dr. Gerber attends because you don't regularly attend, is that correct?
A That's correct.
Q On the occasions when you were there, have you observed Dr. Gerber there?
A Once or twice.
Q How many times have you been there this academic year?
A This academic year?
Q Yes.
A As a guess, I would say six.
Q And he has been there once or two times out of those six?
A That's correct.
[4484] Q Would it be correct to state, Professor, that Professor Gerber was engaged—Dr. Gerber. Correction.
That Dr. Gerber was engaged in scholarly work?
A Yes.
Q He is a Scholar in his own right?
A Yes.
Q And to the best of your knowledge, Professor Lipsicas, he does not possess an appointment at any other school, does he?
A That's correct.
Q Now, do you know a Dr. J. Piatt?
A Yes.
Q He—has he worked under—strike that.
Has he worked under the Atomic Energy Commission grant to which we have made reference during this cross examination?
A Contract.
Q Contract?
A Yes.

Q I stand corrected.
Between the university and the Atomic Energy Commission and under your supervision during the 1972-74 period?
A He worked on the project that was funded by that contract, yes.
[4485] Q And that was for what period of time, just so that we are clear?
My notes show 1972-73 and 73-74 academic years. Would that be correct?
A No.
He worked with me from '71, October '71 to August '73.
Q Would you tell us his background, Professor?
A He has a PhD from the University of Washington in Seattle. He had worked—his thesis work was on the low temperature study of Methane. His expertise was partly in magnetic resonance and partly in low temperatures.
Q And during the time that he was at the Belfer School, he did not possess a full-time appointment anywhere else, did he?
A That's correct, he didn't have any other appointment other than in my lab, yes.
Q That was his full-time job?
A That was his full-time job.
Q And would you say he is a member of the Physics Profession?
A Yes.
Q And Dr. Gerber is a member of the physics profession, is he not?
A Yes.
[4486] Q Now, you were on sabbatical for part of the period that Dr. Piatt was there; is that correct?
A That's correct.
Q But during the time you were there, did you have opportunity to observe him at physics colloquia?
A Occasionally.
Q Now, do you know a Dr. Donald Husa?
A Yes.

Q Is he employed to perform scholarly work under the National Science Foundation grant about which we have had much testimony here today?

A Yes, he was working on the project that was funded by the National Science Foundation.

Q And during what period of time, as best you can recall, Professor Lipsicas?

A I think it was August '73—no; sorry.

It was August '72 to April '73.

Q Hired by you?

A Yes.

Q Professor Gerber was hired by you, was he not?

A That's correct.

Q Professor Piatt was hired—

A I am sorry, these were all doctors, not professors.

Q I am sorry.

Being a layman, the distinction between a professor [4487] and a PhD does distinquish scholarly research slips my mind occasionally.

Was Dr. Gerber hired by you?

A Yes.

Q And Dr. Piatt hired by you?

A Yes.

Q And Dr. Husa hired by you?

A Yes.

Q Did you establish Dr. Husa's salary?

A Yes.

Q Tell him what he would get paid?

A Yes.

Q You could have paid him a little more or a little less, I take it, than the amount of money that had been given to the university under the grant?

A Yes, I can set his pay within the budget that was granted by the agency.

Q As in the case of Dr. Gerber, you set it below by a thousand dollars; is that correct?

A Well, I don't remember in the case of Dr. Husa of where I set it.

Q Would you tell us, as best you recall, what Dr. Husa's background was?

A Yes.

He had a PhD from Ohio State University. He had been a research associate at the—a research associate at [4488] Saclay, which is the French National Atomic Energy Laboratory.

After that time, he had been a research associate at Steven's University. Then he came to me as a research associate.

Q His specialty is physics?

A Physics and low temperature and magnetic resonance.

Q Would it be fair to assert that he is a scholar?

A Yes.

Q A member of the physics profession?

A Yes.

Q And while he was present at Belfer, he was a full-time employed person at Belfer Graduate School of Science?

A He was employed under the contract.

Q Full-time?

A Full-time.

Q He didn't work anywhere else?

A No, he didn't.

Q Do you know a Dr. J. Segal?

A M. Segal.

Q I stand corrected, a Dr. M. Segal.

A Thank you.

Q Is Dr. Segal one of your students?

A Yes.

Q Employed under the National Science Foundation [4489] grant?

A He was a research assistant as a student, paid out of our National Science Foundation grant.

Q And when did he get his doctorate?

A In 1970.

Q Now, forget about that period he was a student, now let's talk about the period 1972-1974.

A Yes.

Q This same Dr. Segal, was he employed under your National Science Foundation grant during that period of time?

A For two months in the summer.

Q Did you hire him, did you not?
A I did.
Q To work as a research associate?
A That's correct.
Q He was no longer a student?
A He was no longer a student.
Q A PhD?
A Yes.
Q In what subject?
A In chemistry.
Q And, of course, a scholar; is that correct?
A It was a continuous—continuation of his thesis.
Q He had his PhD, did he not, at the time he worked [4490] for you?
A That's correct.
Q So that he had his thesis published and had gotten his PhD?
A And had received his PhD.
Q So that when you hired him for two months in the summer, you were hiring him not as a student but as a research associate?
A As a research associate.
Q And he performed scholarly work during those two months?
A That's correct.
Q Did you pay him out of your own pocket?
A No.
Q The university paid him, didn't they?
A I presume so.
Q And it was full-time work, wasn't it?
A Full-time work.
Q Do you know a Dr. Tom Higgans?
A Yes.
Q Did he work as a research associated under your National Science Foundation grant?
A He did.
Q About when did that take place, Dr. Lipsicas?
A Let me see. December '73 to April, I think, the [4491] end of April '74.
Q Till the end of April when?
A '74.

Q And will you tell us something about Dr. Higgans' background, please?
A He had a PhD from—what's the name of the university?—a Catholic University in Washington. He had a post-doctoral research associate with Dr. Goldstein about a year previous to when I hired him.
Q And he worked full-time?
A With me, yes.
Q And he was a professional in his field?
A He was a professional in his field.
Q Doing scholarly work?
A Doing scholarly work.
Q Under a National Science Foundation grant of money to the university?
A Under my—
Q Correct?
A Yes.
Q To the university?
A Well, under the National Science Foundation grant.
Q You have never received a check from the government, have you?
A No, no.
[4492] Q Now, you told us about Dr. Joel Gerber previously, in that he was working for you under a National Science Foundation grant continuance in 1974-75.
Did he also work for you previous to that?
A No.
Q During 1972-74?
A This is Dr. Gerber?
Q Yes.
A No.
Q You are sure about that?
A I am absolutely sure.
Q Did you know a Dr. Theodore or Ted, as he is called, Halpern?
A Yes.
Q And did he work for you under the National Science Foundation grant?
A Yes.
Q When was that, Doctor?
A In the summer of 1974, I believe.
Q Did you hire him?
A I hired him for two months. In the summer.

Q What's his background?
A He has a PhD from one of the German Universities; I don't recall. I think it was Bonn, but I don't recall exactly. He was employed as a research associate on the [4493] Themis contract, how I got to know him, I hired him on the Themis contract.
Q And he did scholarly work for you under the Themis contract?
A That's correct.
Q And under the NSF grant that we are talking about here today?
A That's correct.
Q And you had the authority to hire him?
A I had the authority to hire him, yes.
Q And terminate him?
A Yes, and terminate him.
Q And were responsible for seeing to it that whatever work he performed was done in a scholarly and correct fashion, to the extent those terms apply?
A Again, we worked together.
I don't know how to answer that.
Q You had the authority, did you not, whether he not do the work properly, or not to show up, or to come in drunk, or whatever, to reprimand him and to direct him to do the work properly?
A I think that's correct.
Q That wasn't necessary, but you had the authority, did you not?
A I think that's correct,
[4494] Q That is so with respect to all of the people we have been talking about here—Dr. Gerber, Dr. Husa, Dr. Segal, Dr. Higgans, Dr. Piatt?

* * * *

[4500] A Yes.
Q Now, you know a Dr. Howard Fine?
A Correct.
Q Professor, did Dr. Fine perform research at the [4501] Belfer School pursuant to your AEC grant?
A He was my student.
Q Did he perform research as a doctoral?
A And after he got his PhD, he was a research associate.

Q I am not interested in prior to his obtaining his degree.
A Okay.
Q When did he work, to the best of your recollection, as a research associate?
A As a research associate, it must have been '69 to '70.
Q And what was his field of endeavor?
A Magnetic resonance.
Q And is Dr. Fine a scholar?
A Well, he is a school teacher nowadays.
Q He—is he a scholar, Professor?
A Yes.
Q And a professional in the field of physics?
A Well, as I say, he is working as a school teacher.
Q And I think we find that school teachers are considered professionals, as well, do we not?
A If so, then he is a professional.
Q Professor Lipsicas, you hired Dr. Fine to do to do scholarly research, did you not?
[4502] A That's correct.
Q And you were the one who hired, him, were you not?
A That's correct.
Q And did he perform scholarly research under you?
A Yes.
Q Did you terminate Dr. Fine?
A Yes.

* * * *

[4528] Q Have you travelled, Professor, at university expense, on matters not involving your grants?
A I have never travelled at university expense, it's always been paid out of the—of a grant.
Q By the university?
A By the university except for—
Q Now we will get back to my question, if you don't mind.
A —except for one case in 19—relative to the [4529] grant that you produced on the equipment—I am sorry. Strike that out, please.

One case on a grant similar to the equipment, I did go to Bell Labs. That was reimbursed by the university, not out of my grant.

Q That was paid for by the university?

A Yes.

Q How did you go about getting paid for that—reimbursed for that trip?

A This is the famous case with Dean Gelbart of $8.30, which I think has already been referred to in the testimony.

MR. SHECTMAN: May the witness be directed to answer the question.

HEARING OFFICER: Would you tell us the story, please?

THE WITNESS: Oh.

(Laughter.)

THE WITNESS: Well, this is the days when we had a lot of difficulty with Dean Gelbart.

He chose to take this as a issue that I had gone with Professor Untch, who had left the university, in 1968, to Bell Labs. We were about to put a proposal in, a equipment proposal, to the National Science Foundation.

I put forward the view that it might be more [4530] efficient to buy a small computer for this application since the users were organic chemists and knew nothing about computers, I took them to see someone who was using this kind of equipment at Bell Labs.

Then I applied for the refund of the travel to Bell Labs, which amounted to eight dollars and something, and this was refused by Dean Gelbart because I had not received prior permission to go to Bell Labs.

Q (By Mr. Kramer) What happened there, Professor?

A Well, eventually I did get repaid, but this was part of the issue that was raised when Dean Gelbart was removed from office.

Q In other words, Dean Gelbart refused to approve your expenditure?

A Yes.

Q And was removed ultimately from office with this being one of the causes, is that correct?

A Well, I don't know whether I would call it this was one of the causes, but this was one of the factors that came into the discussion, which eventually he was removed.

* * * *

[RECROSS EXAMINATION]

[4555] Q Have you had discussions about your grants with Doctor Patt? And we're not now just focusing on the last grant, the last grant you had, to which you told me yes.

A Are you talking about the day-to-day operation of the grant?

Q I'm talking about the grant itself.

A The grant itself, not the proposal. The grant, yes.

Q How about the day-to-day administration of the grant?

A Some general questions.

Q About how money may be spent under the grant or grants?

A How much money—

Q About how money may be spent under the grant or grants?

A I've had discussions with him, yes, sir.

Q How expenditures may or may not be charged under the grants?

A Yes.

* * * *

[4556] Q (By Mr. Kramer) Dean Komar, approximately when were you appointed dean? I'm not talking about acting dean, I'm talking about dean of the Belfer School?

A I think it was in 1969, if I recall correctly.

Q And how appointed you?

A President Belkin.

Q And after you were appointed by President Belkin, what action, if any, did you take with respect to the faculty?

[4557] A Well, I asked for a meeting of the faculty. I believe by that time we had the present by-laws, but I'm not positive on that.

So if it were, then it would be the faculty counsel. But it was an assembly of the faculty. I informed them that President Belkin has offered me the position of regular Dean as opposed to acting dean on the recommendation of Vice-President Kogel, who was chairman of the search committee for Dean and that before I would accept that offer, I asked for their approval.

They voted it at the meeting. Then I went back to President Belkin and I accepted the offer.

Q Were you there when that vote was taken or were you advised of the vote later?

A I think I was there.

My recollection is vague from so long ago, but my recollection it wasn't a yes, it was sort of like a vote like acclamation. It wasn't a paper ballot and it wasn't a counting vote, as I recall.

My recollection is not too good on that.

* * * *

[4559] Q (By Mr. Kramer) Dean Komar, who on your staff is responsible for seeing to it—who, if anyone, on your staff, Dean Komar, is responsible for seeing to it that the grant proposals are in accord with governmental regulations and are administered in proper fashion?

A I rely on Doctor Patt for that.

* * * *

HEARING OFFICER: Dean Komar, does this Doctor Patt speak with you or present to you any problems he may come up with in going over a proposal?

THE WITNESS: Yes, occasionally,

I mean, if there—many of the proposals, by the time they reach me, there are no problems, but on occasion there have been problems, in which case Doctor Patt has briefed me about them and discussed them with me.

[4560] HEARING OFFICER: Has he sought your permission to correct them?

THE WITNESS: Or my approval for a course of action that he's proposing or informing me as to what the nature of the dispute is in anticipation of perhaps the faculty member coming to me with his version of the dispute.

HEARING OFFICER: Do you know if Doctor Patt will correct it himself without going to you?

THE WITNESS: Since he doesn't come to me very often, it's my understanding that he takes care of it generally himself.

By the time it comes to me, I sometimes just skim it casually or sometimes I don't even read it when I sign it because I rely on him to have seen to it that it was properly prepared and all the requirements are taken care of.

Q (By Mr. Shectman) Dean Komar, did Professor Patt ever submit to you any report of his review, if any, of Doctor Lipsicas's grant proposals?

A Not to my knowledge, no.

Q Do you have any knowledge of Doctor Patt ever disapproving a grant proposal?

A He has disapproved proposed budgets.

Q Proposed budgets?

[4561] A Yes, and they have gone back to negotiations with the principal investor.

Q And the principal investor himself has—

A And the revisions have had—sometimes it's negotiated as to what categories should or should not be included in the budget.

Q Will that involve, in those cases, the interpretation and administration of government regulations over those grants?

A It could be that or it could be university policy.

Q For instance, what university policy?

A Well, you had testimony earlier about a discussion of whether a secretary should be put in the budget of the grant or not.

The particular discussion in the testimony referred to a conversation between Professor Lipsicas and Mr. MacDonald.

However, Mr. MacDonald is no longer in our employ. The duties of Mr. MacDonald are Doctor Patt's.

Similar discussions with principal investors now take place with Doctor Patt.

Q But in those discussions, Professor Lipsicas did what he desired rather than what the university—

A Ultimately he did what he desired, yes.

* * * *

[4569] MR. KRAMER: Mr. Hearing Officer, it is the University's position that all members of the faculty are either supervisory or managerial employees, and should be excluded from the bargaining unit and hence then an election should not be conducted in the unit petitioned for.

Beyond that, Mr. Hearing Officer, it is the University's position that all division chairman, department chairmen, or department heads, as there sometimes referred to in the record, are supervisors within the meaning of the Act, are managerial employees.

HEARING OFFICER: Or?

MR. KRAMER: The or is an and/or, really. An and/or in our main unit contention as well.

In addition, it is the University's position that the "senior members", at Yeshiva College, who are, as the record shows, the concommitant of department chairmen at other schools, are supervisors and or managerial employees within the meaning of the Act.

Separate and apart from this contention, we assert, [4570] Mr. Hearing Officer, that all principal investigators are supervisory and or managerial employees within the meaning of the law.

Also, we contend that those members of the faculty who are members of the University Review Committee, which is referred to in the faculty handbook which is in evidence in this case, are supervisors and or managerial employees, as are those members of the faculty who are members of the Academic Priorities Committee.

HEARING OFFICER: Academic Priorities Committee?

MR. KRAMER: The proper name for the committee is Academic Priorities and Resource Allocation Committee.

It will be found described in the testimony, I believe, of Dr. Sokol and also of Dr. Fishman and Dr. Rabinowitz.

Beyond this, Mr. Chaiet, we contend that all associate and assistant deans are supervisors and or managerial employees within the meaning of the Act.

Finally, on the question of supervisory and or managerial status, it is our position that all officers of the University, whether or not they engage in teaching or research, are supervisors and or managerial employees, as are all deans, acting deans, whether or not they also engage in addition to their administrative chores in research and or teaching, as some of them do.

[4571] We would include as concommitants of deans for this purpose, the director of the Yeshiva Program, who testified in this case, the director at Striar School, and the director at Teachers Institute For Women.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: As well as the head of the Sephardic Studies Program.

It may be, Mr. Hearing Officer, that the head of the Sephardic Studies Program is correctly called the director of the Sephardic Studies Program.

He appeared in this case and his name is Rabbi Dubrinsky. Just so the record is clear about whom we are talking about.

All these people should be out, as should all other administrators not encompassed within the explicit terms of the petition, whomever they may be.

The petition does speak in rather explicit terms about who it's including, and I don't think there's any intention on anyones part here to have included people such as guidance counselors, or psychological counselors, or other peripheral type of personnel that are found in universities.

I raise that now because if and when an election is [4572] directed, we hope and believe that it should not be directed, but should an election be directed, these issues sometimes come up, and I think the time to dispel these type of issues is now, as opposed to later on in the heat of an election campaign.

* * * *

[4601] MR. SHECTMAN: Let me clarify the position of petitioner to this extent, and if I may respectfully advise Mr. Kramer that it is not a matter of tactics, which we feel the only reason that he's—that these hearings have progressed as long as they have, have in fact been the tactics of this University, but rather that the petitioner's position is that we do not ask for [4602] nor do we anticipate an order of election including unknown faculty to be employed in an unknown school, performing unknown functions, whereby I believe in fact as rare as it has been in these proceedings, that the employer and petitioner are in basic agreement here, that to the extent that no such school currently exists, nor any such employees are actually in that school, we are not seeking any order or direction that they be included in the election.

MR. KRAMER: That is precisely the result we seek, and I think that's tantamount to a stipulation in the exclusion of law school faculty at or about the time of the election, should there be any law school faculty we can pass on.